

natural habitats through realignment and special design or construction features. In accordance with the Environmental Protection Agency's Clean Water Act Section 404(b)(1) guidelines (40 CFR part 230 *et seq.*), avoidance and then minimization must be given first consideration in mitigating wetlands impacts. These guidelines apply only to impacts to wetlands regulated under Section 404 of the Clean Water Act.

(2) After practicable avoidance and minimization measures have been exhausted, other ecologically desirable compensatory mitigation alternatives, either inside or outside of the right-of-way. These may include such measures as on-site mitigation, when that alternative is determined to be ecologically desirable and practicable; improvement of existing degraded or historic wetlands or natural habitats through restoration or enhancement on or off site; creation of new wetlands from non-wetland areas off-site; and under exceptional circumstances, preservation of existing wetlands or natural habitats on or off site. Restoration of wetlands is generally preferable to enhancement or creation of new wetlands from non-wetland areas.

(3) Improvements to existing wetlands or natural habitats. Such activities may include, but are not limited to, construction or modification of water level control structures or ditches, establishment of natural vegetation, recontouring of the site, installation or removal of irrigation or water distribution systems, pest control, installation of fencing, site monitoring, and other measures to protect, enhance, or restore the wetland or natural habitat character of the site.

(4) Wetlands mitigation banking and related measures. With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks² or other applicable Federal law (including regulations).

(b) *Participation in wetlands or natural habitat mitigation banks.* If the development or acquisition of mitigation credits in wetland or natural habitat mitigation banks, either on or off-site, is determined to be the most

ecologically desirable and practicable alternative for compensatory mitigation, banking alternatives eligible for participation with Federal-aid funds include such measures as the following:

(1) Multi-user wetlands or natural habitat banks established on publicly owned or controlled lands;

(2) Single purpose publicly owned banks, established by and for the use of a State DOT with Federal-aid participation; or multipurpose publicly owned banks, established with public, non-Federal-aid funds, in which credits may be purchased by highway agencies using Federal-aid funds on a per-credit basis; or

(3) Other forms of mitigation banks in which mitigation credits are purchased by State DOTs to mitigate wetlands or habitat impacts due to projects funded under title 23, U.S.C., including privately owned banks or those established with private funds to mitigate wetland or natural habitat losses which have been approved and/or permitted by the appropriate regulatory agency.

(c) *Contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands or natural habitats.* Federal-aid funds may participate in the development of statewide and regional wetlands conservation plans, including any efforts and plans authorized pursuant to the Water Resources Development Act of 1990 (Pub. L. 101-640). Contributions to these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes.

§ 777.11 Other considerations.

(a) The development of measures proposed to mitigate impacts to wetlands or natural habitats should include consultation with appropriate State and Federal agencies.

(b) Federal-aid funds may not participate in the replacement of wetlands or natural habitats absent sufficient assurances that the area will be maintained in the intended state as a wetland or natural habitat.

(c) The acquisition of proprietary interests in replacement wetlands or natural habitats as a mitigation measure may be in fee simple or by easement, as appropriate. The acquisition of "mitigation credits" in wetland or natural habitat mitigation banks should be accomplished through a legally recognized instrument, such as permanent easement or deed restriction, which provides for protection and permanent continuation of the wetland

or natural habitat nature of the mitigation.

(d) A State DOT may acquire privately owned lands in cooperation with another public agency or third party. Such an arrangement may accomplish greater benefits than would otherwise be accomplished by the individual agency acting alone.

(e) A State DOT may transfer the title to, or enter into an agreement with, an appropriate public natural resource management agency to manage lands acquired outside the right of way without requiring a credit to Federal funds. Any such transfer of title or agreement shall require the continued use of the lands for the purpose for which they were acquired. In the event the purpose is no longer served, the lands and interests therein shall immediately revert to the State DOT for proper disposition.

(f) The reasonable costs of acquiring lands or interests therein to provide replacement lands with equivalent wetlands or natural habitat area or functional capacity associated with these areas are eligible for Federal participation.

(g) The objective in mitigating impacts to wetlands in the Federal-aid highway program is to implement the policy of a net gain of wetlands on a program wide basis, when project impacts are unavoidable.

(h) Certain activities to ensure the viability of compensatory mitigation wetlands or natural habitats during the period of establishment are eligible for Federal-aid participation. These include, but are not limited to, such activities as repair or adjustment of water control structures, pest control, irrigation, fencing modifications, replacement of plantings, and mitigation site monitoring. The establishment period should be specifically determined by the mitigation agreement among the mitigation planners prior to beginning any compensatory mitigation activities.

[FR Doc. 99-8444 Filed 4-6-99; 8:45 am]

BILLING CODE 4910-22-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180, 185 and 186

[OPP-300841; FRL-6075-1]

RIN 2070-AB78

Tolerance Revocations for Certain Pesticides

AGENCY: Environmental Protection Agency (EPA).

² See footnote 1.

ACTION: Proposed rule.

SUMMARY: This document announces the proposed revocation of tolerances listed in the regulatory text for the herbicides dalapon, fluchloralin, metobromuron, paraquat, and sesone; the fungicides zinc sulfate, glyodin, and manganous dimethyldithiocarbamate (manam); the insecticides coumaphos, hydrogen cyanide and *O*-Ethyl *S*-phenyl ethylphosphonodithioate (fonofos); the plant growth regulator *N,N*-dimethylpiperidinium chloride (mepiquat chloride); and the food additive ethyl formate. Also, this notice proposes to revoke the tolerance for residues of the nematocide and insecticide ethoprop in or on mushrooms and soybeans; soybeans, forage; and soybeans, hay; and the food additive tolerance for residues of the fungicide paraformaldehyde in maple syrup. EPA expects to determine whether any individuals or groups want to support these tolerances. The regulatory actions in this notice are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA). By law, EPA is required to reassess 33% of the tolerances that were in existence on August 2, 1996, by August 1999, or about 3,200 tolerances. The regulatory actions proposed in this document pertain to the proposed revocation of 206 tolerances and/or exemptions, which would be counted among reassessments made toward the August 1999 review deadline of FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: Comments must be received on or before June 7, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit IV of the SUPPLEMENTARY INFORMATION section of this notice. Be sure to identify the appropriate docket number [OPP-300841].

FOR FURTHER INFORMATION CONTACT:

Amy Caicedo, Special Review Branch (7508C), Special Review and Reregistration Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Special Review Branch, Crystal Mall 2, 6th floor, 1921 Jefferson Davis Highway, Arlington, Virginia, Telephone: (703) 308-9399; e-mail: caicedo.amy@epa.gov.

SUPPLEMENTARY INFORMATION:**I. What is the Contribution to Tolerance Reassessment?**

By law, EPA is required to reassess 33% of the tolerances that were in existence on August 2, 1996, by August 1999, or about 3,200 tolerances. As of March 1999, EPA has reassessed over 2,400 tolerances. The regulatory actions proposed in this document pertain to the proposed revocation of 206 tolerances and/or exemptions, which would be counted among reassessments made toward the August 1999 review deadline of FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996.

II. Does this Proposed Rule Apply to Me?

You may be affected by this proposed rule if you sell, distribute, manufacture, or use pesticides for agricultural applications, process food, distribute or sell food, or implement governmental pesticide regulations. Pesticide reregistration and other actions [see FIFRA section 4(g)(2)] include tolerance and exemption reassessment under FFDCA section 408. Potentially affected categories and entities may include, but are not limited to:

Category	Examples of Potentially Affected Entities
Agricultural Stakeholders.	Growers/Agricultural Workers Contractors [Certified/Commercial Applicators, Handlers, Advisors, etc.] Commercial Processors Pesticide Manufacturers User Groups Food Consumers
Food Distributors	Wholesale Contractors Retail Vendors Commercial Traders/Importers
Intergovernmental Stakeholders.	State, Local, and/or Tribal Government Agencies
Foreign Entities	Governments, Growers, Trade Groups

This table 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 table could also be affected. If you have any questions regarding the applicability of this action to a particular entity, you can consult with the technical person listed in the "FOR FURTHER INFORMATION CONTACT" section.

III. How can I get additional information or copies of this or other support documents?**A. Electronically**

You may obtain electronic copies of this document and various support documents from the EPA Internet Home Page at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations" 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/homepage/fedrgstr/>.

B. In Person or by Phone

If you have any questions or need additional information about this action, please contact the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section. In addition, the official record for this notice, including the public version, has been established under docket control number [OPP-300841], including comments and data submitted electronically as described below. A public version of this record (including printed paper versions of any electronic comments) which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in room 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington Virginia, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is 703-305-5805.

IV. How Can I Respond to this Notice?**A. How and to Whom Do I Submit Comments To?**

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket number (i.e., [OPP-300841]) in your correspondence.

1. *By mail.* Submit written comments, identified by the docket control number [OPP-300841], to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver written comments, identified by the docket control number [OPP-300841], to: Public Information and Records Integrity Branch, Office of Pesticide Programs, U.S. Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

3. *Electronically.* Submit your comments and/or data electronically by email to: oppt.ncic@epa.gov. Do not submit any information electronically that you consider to be CBI. Submit electronic comments in ASCII file format avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the appropriate docket control number [OPP-300841]. You may also file electronic comments and data online at many Federal Depository Libraries.

B. How Should I Handle CBI Information in My Comments?

You may claim information that you submit 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. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section.

V. What Is a "Tolerance"?

A "tolerance" represents the legally allowed maximum level for residues of pesticide chemicals 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, Pub. L. 104-170, authorizes the establishment of tolerances (maximum residue levels), exemptions from the requirement of a tolerance, 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 can not distribute the product in interstate commerce (21 U.S.C. 331(a) and 342(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under section 3 of FIFRA (7 U.S.C. et seq.). To retain these tolerances and exemptions, EPA must make a finding

that the tolerances and exemptions are safe. To make this safety finding, EPA needs data and information indicating that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide residues covered by the tolerances and exemptions.

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

VI. Why Is EPA Proposing the Tolerance Actions Discussed below?

EPA is proposing a number of these tolerance actions to implement the tolerance recommendations made during the Reregistration Eligibility Decision (RED) process, and as follow-up on canceled pesticides and uses of pesticides. As part of the RED process, EPA is required to determine whether each of the amended tolerances meets the safety standards under the Food Quality Protection Act (FQPA). The safety finding determination is found in detail in each RED for the active ingredient. REDs propose certain tolerance actions to be implemented to meet safety findings and change commodity names and groupings in accordance with new EPA policy. Printed copies of the REDs may be obtained from EPA's National Center for Environmental Publications and Information (EPA/NCEPI), P.O. Box 42419, Cincinnati, OH 45242-2419, telephone 1-800-490-9198; fax 513-489-8695 and from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone 703-487-4650. Electronic copies of the RED are available on the internet at <http://www.epa.gov/REDs>.

Of the chemicals in this **Federal Register** Notice, REDs have been issued for Paraquat, Coumaphos, and Mepiquat chloride. The REDs for Paraquat and Mepiquat chloride were issued after passage of FQPA so they contain the Agency's evaluation of the database for these pesticides, including requirements for additional data on the active ingredients to confirm the potential human health and environmental risk assessments associated with current product uses as well as the Agency's decisions and conditions under which these uses and products will be eligible for registration. A determination of safety by EPA includes consideration of (a) potential cumulative effects with pesticides that have a common mode of

toxicity, (b) aggregate risks resulting from exposure to residues in food and drinking water and exposure occurring due to pesticide application in residential settings, and (c) special sensitivity to children. FFDCA section 408(b)(2)(C) requires that when determining appropriate tolerances, EPA apply an additional ten-fold safety factor for infants and children to take into account potential pre- and post-natal toxicity and the completeness of data on toxicity and exposure unless a different margin of safety, on the basis of reliable data, will be safe for infants and children. Retention, reduction, or removal of the ten-fold safety factor is based on a weight of evidence evaluation of all applicable data. This **Federal Register** proposal for Paraquat and Mepiquat chloride only includes the tolerances proposed for revocation. At a later date, EPA will issue a **Federal Register** proposal for the other tolerance reassessments in the Paraquat and Mepiquat chloride REDs. An FQPA assessment still remains to be done for Coumaphos since this RED was completed before passage of FQPA.

In addition to implementing the tolerance recommendations found in RED documents, this **Federal Register** notice proposes revocation for canceled uses of certain pesticides. Registrations for Dalapon, Ethyl Formate, Fluchloralin, Fonofos, Glyodin, Hydrogen Cyanide, Manam, Metobromuron, Sesone, and Basic Zinc Sulfate were voluntarily canceled by their respective registrants. It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients for which FIFRA registrations no longer exist. EPA has historically expressed a concern that retention of tolerances that are not necessary to cover residues in or on legally treated foods has the potential to encourage misuse of pesticides within the United States. However, in accordance with FFDCA section 408, EPA will not revoke any tolerance or exemption proposed for revocation if any person demonstrates a need for the retention of the tolerance, and if retention of the tolerance will meet the tolerance standard established under FQPA. Generally, interested parties support the retention of such tolerances in order to permit treated commodities to be legally imported into the United States, since raw agricultural commodities or processed food or feed commodities containing pesticide residues not covered by a tolerance or exemption are considered to be adulterated.

For tolerances without U.S. registrations, EPA requires the same

toxicology and residue chemistry data requirements as are needed to support U.S. food-use registrations. For import tolerances, EPA applies these data requirements on a case-by-case basis to account for specific growing conditions in foreign countries. (See 40 CFR part 158 for EPA's data requirements to support domestic use of a pesticide and the establishment and maintenance of a tolerance. EPA is developing a guidance document concerning data requirements for import tolerance support. This guidance will be made available to interested persons). In most cases, EPA requires residue chemistry data (crop field trials) that are representative of growing conditions in exporting countries in the same manner that EPA requires representative residue chemistry data from different U.S. regions to support domestic use of a pesticide and any resulting tolerance(s) or exemption(s). Good Laboratory Practice (GLP) requirements for studies submitted in support of tolerances and exemptions for import purposes only are the same as for domestic purposes; i.e., the studies are required to either fully meet GLP standards, or have sufficient justification presented to show that deviations from GLP requirements do not significantly affect the results of the studies.

VII. Which Pesticides Are Covered by this Action?

The following pesticides are covered by this proposed rule:

1. Basic zinc sulfate is a fungicide used to control blight, brown rot, leaf spot, and scab. It was manufactured by FMC Corp., Agricultural Products Group, Griffin Corp., Marzone Inc., Puregro Co., Solaris Group of The Monsanto Co., Sureco Inc., Tifchem Products Inc., and W.R. Grace and Company.

2. Coumaphos [*O,O*-Diethyl *O*-(3-chloro-4-methyl-2-oxo-2*H*-1-benzopyran-7-yl) phosphorothioate], trade names CO-Ral, Baymix, Bay 21/199, Muscatox, Asuntol, Ent-17957, Resitox, is an organophosphate insecticide used for control of a wide variety of livestock insects, including cattle grubs, screw worms, lice, scabies, flies, and ticks. It is used against ectoparasites, which are insects that live on the outside of host animals such as sheep, goats, horses, pigs, and poultry. It is added to cattle and poultry feed to control the development of fly larvae that breed in manure. It is manufactured by Bayer Corporation.

3. Dalapon (2,2-dichloropropionic acid, trade names Dalapon 85 and GX Dalapon) is an herbicide used to control Bermuda grass, oxtails, Johnson grass, quackgrass, and other perennial and

annual grasses, as well as cattails and rushes. It was manufactured by Aceto Agriculture Chemicals Corp. and by Garden Exchange Ltd.

4. Ethoprop (*O*-ethyl *S,S*-dipropyl phosphorodithioate, trade name Mocap) is a nematocide and insecticide used to control aphids, beetles, billbugs, grubs, nematodes, rootworms, weevils, and wireworms. It is manufactured by Rhone-Poulenc AG Company.

5. Ethyl formate is a food additive used to control the flour beetle, Indian meal moth, and raisin moth. It was manufactured by Coast Laboratories and by International Minerals and Chemical Corporation.

6. Fluchloralin (*N*-(2-chloroethyl)-1-*a,a,a*-trifluoro-2,6-dinitro-*N*-propyl-*p*-toluidine, trade name Basalin) is a selective herbicide used to control broadleaf weeds, crabgrass, oxtails, goosegrass, Johnson grass, and pigweed. It was manufactured by BASF Corporation.

7. *O*-Ethyl *S*-phenyl ethylphosphonodithioate (Fonofos, trade names Dyfonate, N-2790, Ent-25,796, Stauffer N-2790) is a soil applied organophosphate insecticide. It was manufactured by Zeneca Ag Products.

8. Glyodin (2-heptadecyl-2-imidazoline acetate or 2-heptadecyl-2-imidazoline (base)) is a fungicide used to control black rot, black spot, brown rot, leaf spot, powdery mildew, scab, and sooty blotch. It was manufactured by Agway Inc., Grower Service Corp., and Union Carbide Corporation.

9. Hydrogen cyanide is an insecticide and rodenticide fumigant used to control beetles, cockroaches, mealworms, mice, moths, rats, and weevils. It was manufactured by Degesch America, Inc. and by Fumico Incorporated.

10. Manganous dimethyldithiocarbamate (manam, trade names Fundex, Tricarbamix, and Niagara niacide) is a fungicide used to control leaf spot, rust and scab. It was manufactured by Aceto Agriculture Chemicals Corp., ELF Atochem North America Inc., and FMC Corp. Agricultural Products Group.

11. Metobromuron (*N*-(4-bromophenyl)-*N*-methoxy-*N*-methylurea) is a selective herbicide used to control barnyard grass, carpetweed, chickweed, crabgrass, goose grass, pigweed, and ragweed. It was manufactured by Aceto Agriculture Chemicals Corporation.

12. *N,N*-dimethylpiperidinium chloride (mepiquat chloride, trade name Pix) is a plant growth regulator. It is manufactured by BASF Corporation.

13. Paraformaldehyde (trade names Flomor, Ma-pel, Sapflo) is a fungicide and bactericide used to control pathogenic fungi, pathogenic bacteria, and mold/mildew. It is manufactured by Lamb Natural Flow, Inc., Sugar Bush Supply Co., and Reynolds Sugar Bush Incorporated.

14. Paraquat (trade names Cyclone, Gramoxone, and Surefire) is a herbicide used to control a broad spectrum of emerged weeds. It is manufactured by Zeneca Ag Products.

15. Sesone (sodium 2,4-dichlorophenoxyethyl sulfate) is a herbicide used to control barnyard grass, carpetweed, chickweed, crabgrass, foxtail, and pigweed. It was manufactured by Landia Chemical Co. and by Tifchem Products Incorporated.

VIII. What Action Is Being Taken?

This notice proposes revocation of all FFDCA tolerances for residues of the herbicides dalapon, 40 CFR 180.150, 185.1500, and 186.1500; fluchloralin, § 180.363; metobromuron § 180.250; and sesone, § 180.102; the fungicides basic zinc sulfate, § 180.244; glyodin, § 180.124; and manganous dimethyldithiocarbamate, § 180.161; the insecticides fonofos, § 180.221; and hydrogen cyanide, § 180.130; and the food additive ethyl formate, § 180.520; because no registered uses exist. The registrations for these pesticide chemicals were canceled because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily canceled all registered uses of the pesticide.

For the following pesticides, certain tolerances for specific commodities are proposed to be removed.

1. *Ethoprop*. The following tolerances for residues in 40 CFR 180.262(a) on mushrooms; soybeans; soybeans, forage; and soybeans, hay are being proposed for revocation for Ethoprop because uses no longer exist for mushrooms, and the registrant voluntarily canceled the soybean uses.

2. *Paraformaldehyde*. The paraformaldehyde tolerance in 40 CFR 185.4650 for residues in maple syrup is being proposed for revocation because the use was voluntarily canceled by the registrant.

3. *Coumaphos*. The tolerances in 40 CFR 180.189 for residues of coumaphos for residues on eggs; poultry, fat; poultry, meat byproducts(mbypp); and poultry, meat are being proposed for revocation because these uses were voluntarily canceled by the registrant.

4. *N,N*-dimethylpiperidinium chloride. This notice also proposes revocation of FFDCA tolerances in 40 CFR 180.384 for residues of the plant

growth regulator *N,N*-dimethylpiperidinium chloride (mepiquat chloride) in or on cotton, forage because it is no longer considered a significant livestock feed item. Tolerances on eggs; milk; poultry, fat; poultry, mbyp; poultry, meat are being proposed for revocation because there is no reasonable expectation of finite residues and therefore a tolerance is unnecessary (40 CFR 180.6(b)). The tolerance for cottonseed meal is being revoked because it will be covered within the reassessed raw agricultural commodities tolerance.

5. *Paraquat*. EPA proposes to revoke the tolerances for rye grain and oat grain in 40 CFR 180.205(a) because no registered uses exist. The Agency proposes to revoke the tolerances for poultry, fat; meat; and poultry, mbyp in 40 CFR 180.205(a) because data indicate that no residues are expected. The statement of policy is given in 40 CFR 180.6(a)(3). In such cases, the Agency proposes to revoke the existing tolerances because they are unnecessary. Also, the Agency proposes to revoke the tolerances for bean straw; hops, fresh; hop vines; lentil, hay; peanut, vines; and sunflower, seed hulls in 40 CFR 180.205(a) because they are no longer considered raw agricultural commodities.

It is EPA's general practice to propose revocation of those tolerances for residues of pesticide chemicals for which there are no active registrations. These revocations will become final unless any person in commenting on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

IX. When Do These Actions Become Effective?

EPA proposes that these actions become effective 90 days following publication of a final rule in the **Federal Register**. EPA is proposing this effective date because EPA believes that by this date all existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation will have been exhausted for more than 1 year; giving ample time for any treated fresh produce to clear trade channels. Therefore, EPA believes revocation after a 90-day period should be reasonable. However, if EPA is presented with information that there are existing stocks still available for use and that information is verified, EPA will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the effective date accounts for these stocks, please submit comments as

described in Unit IV of the SUPPLEMENTARY INFORMATION section of this notice.

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

X. What Can I Do If I Wish the Agency to Maintain a Tolerance That the Agency Proposes to Revoke?

In addition to submitting comments in response to this proposed rule, you may also submit an objection. EPA subsequently issues a final rule after considering the comments that are submitted in response to this notice. 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, the issues resolved in the final rule cannot be raised again in any subsequent proceedings.

This proposal provides 60 days for any interested person to demonstrate a need for retaining a tolerance, if retention of the tolerance will meet the tolerance standard established under FQPA. If EPA receives a comment 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 the data needed, 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 FIFRA or FFDCA.

XI. How Do the Regulatory Assessment Requirements Apply to this Action?

A. Is this a "Significant Regulatory Action"?

No. Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action." The Office of Management and Budget (OMB) has determined that tolerance actions, in general, are not "significant" unless the action involves the revocation of a tolerance that may result in a substantial adverse and material affect on the economy. In addition, this action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this action is not an economically significant regulatory action as defined by Executive Order 12866. Nonetheless, environmental health and safety risks to children are considered by the Agency when determining appropriate tolerances. Under FQPA, EPA is required to apply an additional 10-fold safety factor to risk assessments in order to ensure the protection of infants and children unless reliable data supports a different safety factor.

B. Does this Action Contain Any Reporting or Recordkeeping Requirements?

No. This action does not impose any information collection requirements subject to OMB review or approval pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

C. Does this Action Involve Any "Unfunded Mandates"?

No. This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

D. Do Executive Orders 12875 and 13084 Require EPA to Consult with States and Indian Tribal Governments Prior to Taking the Action in this Notice?

No. Under Executive Order 12875, entitled *Enhancing Intergovernmental Partnerships* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management

and Budget (OMB) a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's proposed rule does not create an unfunded Federal mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this proposed rule.

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

E. Does this Action Involve Any Environmental Justice Issues?

No. This proposed rule does not involve special considerations of

environmental-justice related issues pursuant to Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994).

F. Does this Action Have a Potentially Significant Impact on a Substantial Number of Small Entities?

No. The Agency has certified that tolerance actions, including the tolerance actions in this document, are not likely to result in a significant adverse economic impact on a substantial number of small entities. The factual basis for the Agency's determination, along with its generic certification under section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), appears at 63 FR 55565, October 16, 1998 (FRL-6035-7). This generic certification has been provided to the Chief Counsel for Advocacy of the Small Business Administration.

G. Does this Action Involve Technical Standards?

No. This tolerance 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), Pub. L. 104-113, Section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanation when the Agency decides not to use available and applicable voluntary consensus standards. EPA invites public comment on this conclusion.

H. Are There Any International Trade Issues Raised by this Action?

These revocations will not become final if comments are received which demonstrate the need to maintain the tolerance to cover residues in or on imported commodities. However, data must be submitted that support the continued tolerance. The U.S. EPA is developing guidance concerning data requirements for import tolerance support. This guidance will be made available to interested persons.

I. Is this Action Subject to Review under the Congressional Review Act?

No. This action is not a final rule. Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104-121, 110 Stat. 847), only final rules must be submitted to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**.

List of Subjects

40 CFR Part 180

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

40 CFR Part 185

Environmental Protection, Food additives, Pesticide and pest.

40 CFR Part 186

Environmental Protection, Animal feeds, Pesticide and pest.

Dated: March 31, 1999.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR parts 180, 185 and 186 be amended as follows:

PART 180--[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:
Authority: 21 U.S.C. 321(q), 346a and 371.

§§ 180.102, 180.124, 180.130, 180.150, and 180.161 [Removed]

b. By removing §§ 180.102, 180.124, 180.130, 180.150 and 180.161.

c. Section 180.189 is revised to read as follows:

§ 180.189 Coumaphos; tolerances for residues.

Tolerances for residues of the insecticide coumaphos (*O,O*-diethyl 0-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate and its oxygen analog (*O,O*-diethyl 0-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate) in or on raw food commodities as follows:

Commodity	Parts per million
Cattle, fat	1.0
Cattle, meat	1.0

Commodity	Parts per million
Cattle, mbyp	1.0
Goat, fat	1.0
Goat, meat	1.0
Goat, mbyp	1.0
Hog, fat	1.0
Hog, meat	1.0
Hog, mbyp	1.0
Horse, fat	1.0
Horse, meat	1.0
Horse, mbyp	1.0
Milk, fat (=n in whole milk)	0.5
Sheep, fat	1.0
Sheep, meat	1.0
Sheep, mbyp	1.0

§ 180.205 [Amended]

d. By removing from § 180.205(a), *Paraquat*, the entries for bean straw; hops, fresh; hop vines; lentil, hay; oat grain; peanut, vines; poultry, fat; poultry, meat; poultry, mbyp; rye grain, and sunflower, seed hulls.

§§ 180.221, 180.244, and 180.250 [Removed]

e. By removing §§ 180.221, 180.244, and 180.250.

§ 180.262 [Amended]

f. By removing, from § 180.262(a), *Ethoprop*; *tolerances for residues*, the entry for mushrooms.

§ 180.363 [Removed]

g. By removing § 180.363.

§ 180.384 [Amended]

h. By removing from § 180.384(a), *N,N-dimethylpiperidinium chloride*; *tolerances for residues*, the entries for cotton forage; cottonseed; cottonseed meal; eggs; milk; poultry, fat; poultry, mbyp; and poultry, meat.

§ 180.520 [Removed]

i. By removing § 180.520.

PART 185—[AMENDED]

1. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a, 348.

§§ 185.1500 and 185.4650 [Removed]

b. By removing §§ 185.1500 and 185.4650.

PART 186—[AMENDED]

1. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 342, 348, and 371.

§§ 186.1500 [Removed]

b. By removing § 186.1500.

[FR Doc. 99-8635 Filed 4-6-99; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 25**

[IB Docket No. 99-81; RM-9328; FCC 99-50]

The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission (FCC) proposes to amend the regulations covering the 1.6/2.4 GHz Mobile Satellite Service (MSS) to incorporate the rules for the 2 GHz MSS in a Notice of proposed rulemaking (Notice). The Notice also seeks comment on non-service link issues, service rules, and frequency coordination. The actions are necessary to establish service rules for the 2 GHz MSS and to obtain public comment on policies for the 2 GHz MSS. The effect of amending the existing 1.6/2.4 GHz MSS rules to incorporate the 2 GHz MSS is to simplify and harmonize the rules for these types of satellite services in the Commission's rules.

DATES: Submit comments on or before June 24, 1999 and submit reply comments on or before July 26, 1999.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Washington, D.C. 20554. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (May 1, 1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an

electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Alex Roytblat, 202-418-7501; **Legal Information:** Chris Murphy, 202-418-2373 or Howard Griboff, 202-418-0657.

SUPPLEMENTARY INFORMATION:

1. The Commission is authorized to conduct this rulemaking pursuant to its statutory authority contained in the Communications Act of 1934, as amended. 47 U.S.C. 154(i), 303(v). The Notice proposes to grant in part the Petition for Expedited Rulemaking (RM-9328) filed by ICO Services Limited, which requests that the Commission establish service rules for the 2 GHz mobile satellite service by amending the existing Big LEO mobile satellite service rules rather than by developing an entirely new set of rules. The Notice also proposes not to adopt financial qualification entry criteria because all of the proposed systems can be accommodated in the available spectrum. The Notice proposes four main spectrum assignment options. The first is a "flexible band arrangement" that would grant each system 2.5 MHz in uplink and downlink spectrum, group systems in segments based on the particular technology used, and provide expansion spectrum between the assigned segments for additional system requirements. The second proposes a "negotiated entry" approach that would license all the applicants across the entire band and leave it to them to coordinate their operations with the Commission being available to resolve disputes. The third and fourth options, respectively, are a "traditional band arrangement" in which the spectrum would be divided equally among the applicants, and a proposal to auction licenses in the event that none of the preceding three options is viable. The Notice also asks commenters to propose different spectrum assignment alternatives or whether there are other viable approaches or combinations to sharing this spectrum.

2. The Notice reviews each proposed service rule and seeks comment on specific proposals for applying the rules to the 2 GHz MSS. For instance, the Notice seeks comment on the appropriate license term for 2 GHz MSS systems and whether they should be required to build their systems with public safety capabilities such as