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: October 15, 2009.

Keith A. Matthews,

Acting Director, Biopesticides and Pollution Prevention 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 180.1291 is added to subpart D to read as follows:

§ 180.1291 Cold pressed neem oil; exemption from the requirement of a tolerance.

Residues of the biochemical pesticide cold pressed neem oil are exempt from the requirement of a tolerance in or on all food commodities.

[FR Doc. E9–25455 Filed 10–27–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0018; FRL–8795–3]

Pyriproxyfen; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of pyriproxyfen in or on artichoke, globe; asparagus; fruit, small, vine climbing subgroup, except grape 13–07E; vegetable, foliage of legume, group 7; vegetable, leafy, except brassica, group 4; vegetable, leaves of root and tuber, group 2; and watercress. It also removes the section 18 time-limited tolerances on succulent bean, celery and strawberry since these tolerances have expired. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 28, 2009. Objections and requests for hearings must be received on or before December 28, 2009, 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–2009–0018. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. 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 Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Barbara Madden, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6463; e-mail address: *madden.barbara@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 those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide 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 electronically available documents 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 EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR cite at *http://www.gpoaccess.gov/ecfr*. To access the OPPTS Harmonized Test Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/oppts* and select ''Test Methods & Guidelines'' on the left side navigation menu.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. 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–2009–0018 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 as required by 40 CFR part 178 on or before December 28, 2009.

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 this copy, identified by docket ID number EPA–HQ–OPP–2009–0018, 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 Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility'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 Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Register** of April 8, 2009 (74 FR 15971) (FRL–8407–4), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8E7492) by IR-4, IR-4 Project Headquarters, 500 College Rd. East, Suite 201 W., Princeton, NJ 08540. The petition requested that 40 CFR 180.510 be amended by establishing tolerances for residues of the insecticide pyriproxyfen in or on artichoke, globe at 2.0 parts per million (ppm); asparagus at 2.0 ppm; fruit, small, vine climbing subgroup, except grape 13–07E at 0.35 ppm; vegetable, foliage of legume, group 7 at 2.0 ppm; vegetable, leafy, except brassica, group 4 at 3.0 ppm; vegetable, leaves of root and tuber, group 2 at 2.0 ppm; and watercress at 2.0 ppm. That notice referenced a summary of the petition prepared by Valent U.S.A. Corporation, the registrant, on behalf of IR-4 which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

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....''

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in 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 for the petitioned-for tolerances for residues of pyriproxyfen in or on vegetable, leaves of root and tuber, group 2 at 2.0 ppm; vegetable, leafy, except brassica, group 4 at 3.0 ppm; vegetable, foliage of legume, group 7 at 2.0 ppm; artichoke, globe at 2.0 ppm; asparagus at 2.0 ppm; watercress at 2.0 ppm; and small fruit vine climbing subgroup, except grape 13–07E at 0.35 ppm ppm. EPA's assessment of exposures and risks associated with establishing tolerances 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.

Pyriproxyfen is of low acute toxicity. Pyriproxyfen is not a dermal sensitizer. No significant systemic toxicity was observed in either the 21–day dermal toxicity study in rats or the 28–day inhalation toxicity study in rats. Subchronic and chronic toxicity studies in mice, rats and dogs indicate that the liver and kidney are the principal target organs with slight anemia occurring in the rodent species. There was no evidence of increased susceptibility to rat and rabbit fetuses in prenatal developmental toxicity studies or to rat offspring in the 2–generation rat reproduction study. No evidence of developmental toxicity was seen in special studies that evaluated pyriproxyfen toxicity following perinatal and prenatal exposure in rats. There was no evidence of carcinogenicity in either a 78–week mouse feeding study or in the 2–year rat chronic/carcinogenicity study. Pyriproxyfen is classified as a ''Group E'' chemical - no evidence of carcinogenicity to humans. Pyriproxyfen is negative for mutagenic activity in a battery of mutagenicity studies conducted with both the parent and/or metabolites. Specific information on the studies received and the nature of the adverse effects caused by pyriproxyfen 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 at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2009–0018 on pages 34–36 of the document titled ''Pyriproxyfen. Human Health Risk Assessment for the Proposed Use of Pyriproxyfen in/on Vegetables, Leaves of Root and Tuber, Group 2; Vegetables, Leafy, Except Brassica, Group 4; Vegetable, Foliage of Legume, Group 7; Fruit, Small, Vine Climbing, Except Grape, Subgroup 13–07E; Artichoke, Globe; Asparagus; and Watercress Commodities.''

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a Benchmark Dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account 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. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-term, intermediate-term, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the Level of Concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on

the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for pyriproxyfen used for human risk assessment can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2009–0018 on pages 16–18 of the document titled ''Pyriproxyfen. Human Health Risk Assessment for the Proposed Use of Pyriproxyfen in/on Vegetables, Leaves of Root and Tuber, Group 2; Vegetables, Leafy, Except Brassica, Group 4; Vegetable, Foliage of Legume, Group 7; Fruit, Small, Vine Climbing, Except Grape, Subgroup 13–07E; Artichoke, Globe; Asparagus; and Watercress Commodities.''

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to pyriproxyfen, EPA considered exposure under the petitioned-for tolerances as well as all existing pyriproxyfen tolerances in 40 CFR 180.510. EPA assessed dietary exposures from pyriproxyfen in food 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 1–day or single exposure. No such effects were identified in the toxicological studies for pyriproxyfen; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the U.S. Department of Agriculture (USDA) 1994–1996 and 1998 Continuing Survey of Food Intake by Individuals (CSFII). As to residue levels in food, EPA performed an unrefined chronic analysis which assumed 100% crop treated (CT), default processing factors, and tolerance level residues for all commodities.

iii. *Cancer*. Based on the absence of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, EPA has classified pyriproxyfen as ''not likely to be carcinogenic to humans.'' Therefore, a quantitative exposure assessment to evaluate cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information*. As noted above in Unit III.C.1.ii., EPA did not use anticipated residue and/or PCT information in the dietary assessment for pyriproxyfen. Tolerance level residues and/or 100% CT were assumed for all food commodities.

2. *Dietary exposure from drinking water*. The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for pyriproxyfen in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of pyriproxyfen. 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 Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of pyriproxyfen for chronic exposures for non-cancer assessments are estimated to be 0.52 parts per billion (ppb) for surface water and 0.0022 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 0.52 ppb was used to assess the contribution to drinking water.

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 flea and tick control on pets).

Pyriproxyfen is the active ingredient in many registered residential products for flea and tick control (home environment and pet treatments) as well as products for ant and roach control (indoor and outdoor applications). Formulations include carpet powders, foggers, aerosol sprays, liquids (shampoos, sprays and pipettes for pet treatments), granules, bait (indoor and outdoor), and impregnated materials (pet collars). Only a post-application residential assessment was conducted as the Agency did not select any short-term dermal or inhalation endpoints. Toddlers are anticipated to have the highest exposures from treated home environments and pets due to typical hand-to-mouth behavior. EPA assessed residential exposure using the following assumptions:

- Short-term, intermediate-term, and long-term toddler hand-to-mouth exposures (consisting of petting treated animals and touching treated carpets/flooring).
- Long-term dermal exposures for products with anticipated efficacy more than 6 months (carpet powders and pet collars).
- Combined treatment toddler exposure scenarios as a result of treatments to the home environment and the pet in the same period (such as carpet powder and pet shampoo treatments). Episodic ingestion of granules by toddlers is anticipated, but an assessment for this scenario is not included, since an acute dietary endpoint was not selected.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of 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.''

EPA has not found pyriproxyfen to share a common mechanism of toxicity with any other substances, and pyriproxyfen does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that pyriproxyfen does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal 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. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. Based on the available data, there is no quantitative and qualitative evidence of increased susceptibility observed following *in utero* pyriproxyfen exposure to rats and rabbits or following prenatal/postnatal exposure in the 2–generation reproduction study.

3. *Conclusion*. EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA SF to 1X. That decision is based on the following findings:

i. The toxicity database for pyriproxyfen is complete except for acute and subchronic neurotoxicity studies and immunotoxicity testing. Recent changes to 40 CFR part 158 make these studies (OPPTS Guideline 870.7800) required for pesticide registration; however, the available data for pyriproxyfen do not show potential for neurotoxicity or immunotoxicity. Although neurotoxicity studies have not yet been submitted, there is no evidence of neurotoxicity in any study in the toxicity database for pyriproxyfen. Similarly, although the database contains no specific immunotoxicity studies, no evidence of immunotoxicity was found in existing studies. EPA does not believe that conducting immunotoxicity testing will result in a NOAEL less than the chronic Referenced Dose (cRfD) NOAEL of 35.1 milligrams/kilogram body weight/day (mg/kg bw/day) already established for pyriproxyfen or that acute or subchronic neurotoxicity studies would affect selection of the acute Referenced Dose (aRfD) or cRfD. Accordingly, EPA concludes that an additional factor for database uncertainties is not needed to account for potential immunotoxicity or neurotoxicity.

ii. There is no indication that pyriproxyfen is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors (UF) to account for neurotoxicity.

iii. There is no evidence that pyriproxyfen results in increased susceptibility *in utero* in rats or rabbits in the prenatal developmental studies or in young rats in the 2–generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues. Conservative ground water and surface water modeling estimates were used. Similarly, conservative Residential Standard Operating Procedues (SOPs) were used to assess post-application exposure to children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by pyriproxyfen.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-term, intermediate-term, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. An acute aggregate risk assessment takes into account exposure estimates from acute dietary consumption of food and drinking water. No adverse effect resulting from a single-oral exposure was identified and no acute dietary endpoint was selected. Therefore, pyriproxyfen is not expected to pose an acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to pyriproxyfen from food and water will utilize 10% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. A long-term post-application residential assessment was performed. Toddlers are anticipated to have higher exposures than adults from treated home environments and pets due to their behavior patterns. The total chronic dietary and residential aggregate MOEs range from 580 to 4,500. For pyriproxifen, EPA would be concerned if the MOE was below 100.

3. *Short-term risk*. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Pyriproxyfen is currently registered for uses that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to pyriproxyfen.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures aggregated result in aggregate MOEs of 1,200 for children 1 to 2 years old, the population group receiving the greatest exposure, and therefore is not a concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Pyriproxyfen is currently registered for uses that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic exposure to pyriproxyfen through food and water with intermediate-term exposures for pyriproxyfen.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures aggregated result in aggregate MOEs of 430 for children 1 to 2 years old, the population group receiving the greatest exposure, and therefore is not a concern.

5. *Aggregate cancer risk for U.S. population*. Pyriproxyfen is classified as a ''Group E'' chemical (negative for carcinogenicity in humans). This classification is based on the lack of evidence of carcinogenicity in mice and rats. EPA does not expect pyriproxyfen to pose a cancer risk.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to pyriproxyfen residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography/nitrogen-phosphorous detector; GC/NPD) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are currently no established Codex maximum residue limits for pyriproxyfen.

V. Conclusion

Therefore, tolerances are established for residues of pyriproxyfen in or on artichoke, globe at 2.0 ppm; asparagus at 2.0 ppm; fruit, small, vine climbing subgroup, except grape 13–07E at 0.35 ppm; vegetable, foliage of legume, group 7 at 2.0 ppm; vegetable, leafy, except brassica, group 4 at 3.0 ppm; vegetable, leaves of root and tuber, group 2 at 2.0 ppm; and watercress at 2.0 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances 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 final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). 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.*, 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).

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.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not 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).

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).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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: October 16, 2009.

Daniel J. Rosenblatt,

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 180.510 is amended by alphabetically adding the following commodities to the table in paragraph (a)(1) and by revising paragraph (b) to read as follows:

§ 180.510 Pyriproxyfen; tolerances for residues

(a) * * *(1) * * *

Commodity	Parts per million
* * * * *	
Artichoke, globe	2.0
Asparagus	2.0
* * * * *	
Fruit, small, vine climbing, except grape, subgroup 13–07E	0.35
* * * * *	
Vegetable, foliage of legume, group 7	2.0
* * * * *	
Vegetable, leafy, except Brassica, group 4	3.0
Vegetable, leaves of root and tuber, group 2	2.0
* * * * *	
Watercress	2.0
* * * * *	

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

* * * * *

[FR Doc. E9–25689 Filed 10–27–09; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[FWS–R9–MB–2009–0124]

[91200–1231–9BPP–L2]

RIN 1018–AW31

Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2009–10 Late Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correcting amendments.

SUMMARY: On September 2 and 25, 2009, we, the U.S. Fish and Wildlife Service (Service), published two final rules that established special early- and late-season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands. In error, the second of these rules omitted from the regulatory text pertaining to late-season hunting by the White Mountain Apache Tribe the dates and bag limits for duck and Canada goose. This document corrects those errors.

DATES: This rule takes effect on October 28, 2009.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service (703/358–1967), or Tina Chouinard, Division of Migratory Bird Management, U.S. Fish and Wildlife Service (731/432–0981).

SUPPLEMENTARY INFORMATION: On September 2 and 25, 2009, we published final rules that established special early- and late-season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust