[Federal Register Volume 87, Number 34 (Friday, February 18, 2022)]

[Rules and Regulations]

[Pages 9245-9250]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2020-0607; FRL-9454-01-OCSPP]

Fluopyram; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

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SUMMARY: This regulation amends tolerances for residues of fluopyram in

or on cereal grain crop group 15 (except corn and rice), rapeseed

subgroup 20A, and multiple animal commodities, which are identified and

discussed later in this document. This regulation also establishes an

import tolerance for residues of fluopyram in or on coffee. Bayer

CropScience requested these tolerances under the Federal Food, Drug,

and Cosmetic Act (FFDCA).

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DATES: This regulation is effective February 18, 2022. Objections and

requests for hearings must be received on or before April 19, 2022, 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: The docket for this action, identified by docket

identification (ID) number EPA-HQ-OPP-2020-0607, is available at

[https://www.regulations.gov](https://www.regulations.gov/) or at the Office of Pesticide Programs

Regulatory Public Docket (OPP Docket) in the Environmental Protection

Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg.,

Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The

Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through

Friday, excluding legal holidays. The telephone number for the Public

Reading Room is (202) 566-1744, and the telephone number for the OPP

Docket is (703) 305-5805.

Due to the public health concerns related to COVID-19, the EPA

Docket Center (EPA/DC) and Reading Room is open to visitors by

appointment only. For the latest status information on EPA/DC services

and access, visit <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration

Division (7505P), Office of Pesticide Programs, Environmental

Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-

0001; main telephone number: (703) 305-7090; email address:

[RDFRNotices@epa.gov](mailto:RDFRNotices@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.

The following list of North American Industrial Classification System

(NAICS) codes is not intended to be exhaustive, but rather provides a

guide to help readers determine whether this document applies to them.

Potentially affected entities may include:

Crop production (NAICS code 111).

Animal production (NAICS code 112).

Food manufacturing (NAICS code 311).

Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's

tolerance regulations at 40 CFR part 180 through the Office of the

Federal Register's e-CFR site at <https://www.ecfr.gov/current/title-40>.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 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-2020-0607 in the subject line on the first

page of your submission. All objections and requests for a hearing must

be in writing and must be received by the Hearing Clerk on or before

April 19, 2022. Addresses for mail and hand delivery of objections and

hearing requests are provided in 40 CFR 178.25(b).

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 (excluding any Confidential Business Information (CBI)) for

inclusion in the public docket. Information not marked confidential

pursuant to 40 CFR part 2 may be disclosed publicly by EPA without

prior notice. Submit the non-CBI copy of your objection or hearing

request, identified by docket ID number EPA-HQ-OPP-2020-0607, by one of

the following methods:

Federal eRulemaking Portal: [https://www.regulations.gov](https://www.regulations.gov/).

Follow the online instructions for submitting comments. Do not submit

electronically any information you consider to be CBI or other

information whose disclosure is restricted by statute.

Mail: OPP Docket, Environmental Protection Agency Docket

Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC

20460-0001.

Hand Delivery: To make special arrangements for hand

delivery or delivery of boxed information, please follow the

instructions at <https://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along

with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

II. Summary of Petitioned-For Tolerance

In the Federal Register of February 25, 2021 (86 FR 11488) (FRL-

10020-47), EPA issued a document pursuant to FFDCA section 408(d)(3),

21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP

0F8855) by Bayer CropScience, 800 N Lindbergh Blvd., St. Louis, MO

63167. The petition requested that 40 CFR 180.661(a)(1) be amended by

establishing a tolerance for residues of the fungicide fluopyram, N-[2-

[3-chloro-5-(trifluoromethyl)-2-pyridinyl]ethyl]-2-

(trifluoromethyl)benzamide, in or on the following raw agricultural

commodity: Coffee at 0.03 parts per million (ppm). The petition also

requested to amend tolerances in 40 CFR 180.661(a)(1) for residues of

the fungicide fluopyram in or on the following raw agricultural

commodities: Grain, cereal, group 15, except corn and rice at 0.5 ppm;

and Rapeseed subgroup 20A at 0.3 ppm. In addition, the petition

requested to amend tolerances in 40 CFR 180.661(a)(2) for residues of

the fungicide fluopyram in or on the following animal commodities:

Cattle, fat at 0.60 ppm; Cattle, meat at 0.60 ppm; Cattle, meat

byproducts at 6.0 ppm; Egg at 0.06 ppm; Goat, fat at 0.60 ppm; Goat,

meat at 0.60 ppm; Goat, meat byproducts at 6.0 ppm; Hog, fat at 0.01

ppm; Hog, meat at 0.01 ppm; Hog, meat byproducts at 0.06 ppm; Horse,

fat at 0.60 ppm; Horse, meat at 0.60 ppm; Horse, meat byproducts at 6.0

ppm; Poultry, fat at 0.03 ppm; Poultry, meat at 0.03 ppm; Poultry, meat

byproducts at 0.10 ppm; Sheep, fat at 0.60 ppm; Sheep, meat at 0.60

ppm; and Sheep, meat byproducts at 6.0 ppm. That document referenced a

summary of the petition prepared by Bayer CropScience, the registrant,

which is available in the docket, [https://www.regulations.gov](https://www.regulations.gov/). Comments

were received on the notice of filing. EPA's response to these comments

is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA is

establishing and amending, in accordance with section 408(d)(4)(a)(i),

tolerances that vary in some respects from what the petitioner

requested. The reasons for these changes are explained in Unit IV.D.

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

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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 FFDCA section 408(b)(2)(D), and the factors

specified in FFDCA section 408(b)(2)(D), 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 fluopyram including exposure

resulting from the tolerances established by this action. EPA's

assessment of exposures and risks associated with fluopyram follows.

In an effort to streamline its publications in the Federal

Register, EPA is not reprinting sections that repeat what has been

previously published for tolerance rulemakings of the same pesticide

chemical. Where scientific information concerning a particular chemical

remains unchanged, the content of those sections would not vary between

tolerance rulemakings and republishing the same sections is

unnecessary. EPA considers referral back to those sections as

sufficient to provide an explanation of the information EPA considered

in making its safety determination for the new rulemaking.

EPA has previously published a number of tolerance rulemakings for

fluopyram, in which EPA concluded, based on the available information,

that there is a reasonable certainty that no harm would result from

aggregate exposure to fluopyram and established tolerances for residues

of that chemical. EPA is incorporating previously published sections

from those rulemakings as described further in this rulemaking, as they

remain unchanged.

Toxicological profile. For a discussion of the Toxicological

Profile of fluopyram, see Unit III.A. of the July 1, 2019, rulemaking

(84 FR 31208) (FRL-9994-36).

Toxicological points of departure/Levels of concern. For a summary

of the Toxicological Points of Departure/Levels of Concern used for the

safety assessment, see Unit III.B. of the July 1, 2019, rulemaking.

Exposure assessment. Much of the exposure assessment remains the

same, although updates have occurred to accommodate exposures from the

petitioned-for tolerances. The updates are discussed in this section;

for a description of the rest of the EPA approach to and assumptions

for the exposure assessment, see Unit III.C. of the July 1, 2019,

rulemaking.

EPA's dietary exposure assessments have been updated to include:

The reduced exposure from the revised uses (lower maximum application

rates) of fluopyram on cereal grain crop group 15 (except corn and

rice) and rapeseed subgroup 20A; the reduced anticipated residues in

livestock commodities; and the additional exposure associated with the

import tolerance on coffee. For the acute dietary exposure assessment,

EPA used the highest average field trial concentrations for coffee,

cereal grain group 15, and rapeseed 20A. All other commodities used

tolerance-level residues. The acute analysis used 100 percent crop

treated (PCT) for all commodities. For the chronic dietary exposure

assessment, EPA used field trial mean residue values and incorporated

the same PCT data that were used in the July 1, 2019, rulemaking for

existing uses, as well as chronic refined inputs to the livestock

anticipated residues of field trial median data. EPA assumed 100 PCT

for coffee, cereal grain crop group 15 (except corn and rice), and

rapeseed subgroup 20A.

Anticipated residue and percent crop treated (PCT) information.

Section 408(b)(2)(E) of 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 residues that have been

measured in food. If EPA relies on such information, EPA must require

pursuant to FFDCA section 408(f)(1) 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. For the present action, EPA will issue such data call-ins

as are required by FFDCA section 408(b)(2)(E) and authorized under

FFDCA section 408(f)(1). Data will be required to be submitted no later

than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data

on the actual percent of food treated for assessing chronic dietary

risk only if:

Condition a: 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 the pesticide residue.

Condition b: The exposure estimate does not underestimate

exposure for any significant subpopulation group.

Condition c: Data are available on pesticide use and food

consumption in a particular area, and 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 FFDCA section 408(b)(2)(F), EPA may require

registrants to submit data on PCT.

The Agency estimated the average PCT for existing uses for the

chronic dietary exposure assessment as follows: Almonds, 20%; apples,

25%; apricots, 5%; artichoke, 15%; broccoli, 2.5%; cabbage, 2.5%;

carrots, 1%; cauliflower, 1%; cherries, 25%; cotton, 1%; dry beans and

peas, 1%; grapefruit, 10%; grapes, raisins, 1%; table grapes, 5%; wine

grapes; 20%; lemons, 1%; lettuce, 1%; onions, 1%; oranges, 15%;

peaches, 1%; peanuts, 2.5%; pears, 5%; peppers, 5%; pistachios, 15%;

potatoes, 20%; strawberries, 10%; tomatoes, 1%; walnuts, 10%; and

watermelons, 15%.

In most cases, EPA uses available data from United States

Department of Agriculture/National Agricultural Statistics Service

(USDA/NASS), proprietary market surveys, and California Department of

Pesticide Regulation (CalDPR) Pesticide Use Reporting (PUR) for the

chemical/crop combination for the most recent 10 years. EPA uses an

average PCT for chronic dietary risk analysis and a maximum PCT for

acute dietary risk analysis. The average PCT figure for each existing

use is derived by combining available public and private market survey

data for that use, averaging across all observations, and rounding to

the nearest 5%, except for those situations in which the average PCT is

less than 1% or less than 2.5%. In those cases, the Agency would use

<1% or <2.5% as the average PCT value, respectively. The maximum PCT

figure is the highest observed maximum value reported within the recent

10 years of available public and private market survey data for the

existing use and rounded up to the nearest multiple of 5%, except where

the maximum PCT is less than 2.5%, in which case, the Agency uses <2.5%

as the maximum PCT.

The Agency believes that the three conditions discussed earlier

have been met. With respect to Condition a, PCT estimates 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.

As to Conditions b and c, regional consumption information and

consumption information for significant subpopulations is taken into

account

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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

reliable information on the regional consumption of food to which

fluopyram may be applied in a particular area.

Drinking water, non-occupational, and cumulative exposures.

Drinking water exposures and residential (non-occupational) exposures

are not impacted by the revised uses and import tolerance in this

action, and thus have not changed from the July 1, 2019, rulemaking.

Fluopyram is currently registered for use on golf course turf,

residential lawns, fruit trees, nut trees, ornamentals and gardens that

could result in residential exposures. The most conservative

residential risk estimates that were used in the aggregate assessment

are adult handler inhalation exposures from treating lawns with a hose-

end spray and incidental oral hand-to-mouth post-application exposure

to treated lawns for children aged 1 to less than 2 years old. EPA's

conclusions concerning cumulative risk remain unchanged from the July

1, 2019, rulemaking.

Safety factor for infants and children. EPA continues to conclude

that there is reliable data to support the reduction of the Food

Quality Protection Act (FQPA) safety factor. See Unit III.D. of the

July 1, 2019, rulemaking for a discussion of the Agency's rationale for

that determination.

Aggregate risks and determination of safety. EPA determines whether

acute and chronic dietary pesticide exposures are safe by comparing

aggregate exposure estimates to the acute population adjusted dose

(aPAD) and chronic population adjusted (cPAD). For linear cancer risks,

EPA calculates the lifetime probability of acquiring cancer given the

estimated aggregate exposure. Short-, intermediate-, and chronic-term

risks are evaluated by comparing the estimated aggregate food, water,

and residential exposure to the appropriate points of departure to

ensure that an adequate margin of exposure (MOE) exists.

Acute dietary risks are below the Agency's level of concern of 100%

of the aPAD; they are 24% of the aPAD for children 1 to 2 years old,

the population group receiving the greatest exposure. Chronic dietary

risks are below the Agency's level of concern of 100% of the cPAD; they

are 78% of the cPAD for children 1 to 2 years old, the population group

receiving the greatest exposure.

As explained in the July 1, 2019, rule, the Agency analyzed short-

term inhalation exposure to residential handlers and short-term

incidental oral hand-to-mouth post-application exposure to children 1

to 2 years old on treated lawns. Using the exposure assumptions

described in this unit for short-term exposures, EPA has concluded the

combined short-term food, water, and residential exposures result in

aggregate MOEs of 1,500 for both adults (using a residential handler

exposure scenario) and post-application exposure to children 1 to 2

years old. Because EPA's level of concern for fluopyram is an MOE of

100 or below, these MOEs are not of concern.

As stated in the July 1, 2019, rule, fluopyram is not registered

for any use patterns that would result in intermediate-term residential

exposure. Because there is no intermediate-term residential exposure

and chronic dietary exposure has been assessed under the appropriately

protective cPAD, EPA relies on the chronic dietary risk assessment for

evaluating intermediate-term risk for fluopyram.

Based on the lack of evidence of carcinogenicity in two adequate

rodent carcinogenicity studies, fluopyram is not expected to pose a

cancer risk to humans.

Therefore, based on the risk assessments and information described

above, 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 fluopyram residues. More detailed information can

be found at [https://www.regulations.gov](https://www.regulations.gov/) in the document titled

``Fluopyram. Human Health Risk Assessment for the Revision of Permanent

Tolerances and Registration for Use on Cereal Grain Crop Group 15 and

Rapeseed Subgroup 20A, and for the Establishment of Permanent Tolerance

without U.S. Registration for Residues in/on Coffee Commodities'' in

docket ID number EPA-HQ-OPP-2020-0607.

IV. Other Considerations

A. Analytical Enforcement Methodology

For a discussion of the available analytical enforcement method,

see Unit IV.A. of the July 1, 2019, rulemaking.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S.

tolerances with international standards whenever possible, consistent

with U.S. food safety standards and agricultural practices. EPA

considers the international maximum residue limits (MRLs) established

by the Codex Alimentarius Commission (Codex), as required by FFDCA

section 408(b)(4). The Codex Alimentarius is a joint United Nations

Food and Agriculture Organization/World Health Organization food

standards program, and it is recognized as an international food safety

standards-setting organization in trade agreements to which the United

States is a party. EPA may establish a tolerance that is different from

a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain

the reasons for departing from the Codex level.

The Codex has established MRLs for fluopyram in or on canola at 1

ppm and rye grain and wheat grain both at 0.9 ppm. EPA is not

harmonizing the U.S. tolerances for rapeseed subgroup 20A and crop

group 15 (except rice and corn) with the Codex MRLs for canola, rye

grain, or wheat grain because the U.S. tolerances are being harmonized

with the Canadian MRLs as part of a joint review with the U.S.'s major

trading partner.

The Codex has also established MRLs for fluopyram in or on milk at

0.8 ppm, cattle fat at 1.5 ppm, cattle meat at 1.5 ppm, cattle meat

byproducts at 8 ppm, hog fat at 1.5 ppm, hog meat at 1.5 ppm, hog meat

byproducts at 8 ppm, eggs at 2 ppm, poultry fat at 1 ppm, poultry meat

at 1.5 ppm and poultry, kidney and poultry, liver at 5 ppm. To be

consistent with Canada, EPA is not harmonizing the U.S. tolerances for

milk, cattle fat, cattle meat, cattle meat byproducts, hog fat, hog

meat, hog meat byproducts, eggs, poultry fat, poultry meat, and poultry

meat byproducts with the Codex MRLs above. The U.S. and Canada are

jointly reviewing the revised use pattern in the fluopyram petition.

Because the maximum application rates for livestock feed items

(rapeseed subgroup 20A and cereal grains group 15 (except corn and

rice)) are being reduced in both countries, the tolerances on both

plant and livestock commodities are being decreased in both countries.

Codex has not established an MRL for residues of fluopyram in or on

coffee commodities.

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C. Response to Comments

Two comments were submitted to the docket in response to the

February 25, 2021 Notice of Filing. Although the Agency recognizes that

some individuals believe that pesticides should be banned on

agricultural commodities, the existing legal framework provided by

section 408 of the FFDCA authorizes EPA to establish tolerances when it

determines that the tolerance is safe. Upon consideration of the

validity, completeness, and reliability of the available data as well

as other factors the FFDCA requires EPA to consider, EPA has determined

that the fluopyram tolerances are safe. The commenters have provided no

information indicating that a safety determination cannot be supported.

D. Revisions to Petitioned-For Tolerances

The commodity definition for coffee is revised to coffee, green

beans and the tolerance is established at 0.03 ppm to reflect the OECD

rounding class.

Livestock tolerances are revised based upon expected secondary

residues using the more reasonably balanced diet (MRBD) calculations

and incorporating observed transfer factors. The petition states that

the proposed cattle tolerances should be extended to all ruminants;

however, those tolerances should be individually revised. Therefore,

tolerances are amended for cattle, meat at 0.3 ppm; cattle, fat at 0.3

ppm; cattle, meat byproducts at 3 ppm; horse, meat at 0.3 ppm; horse,

fat at 0.3 ppm; horse, meat byproducts at 3 ppm; goat, meat at 0.3 ppm;

goat, fat at 0.3 ppm; goat, meat byproducts at 3 ppm; sheep, meat at

0.3 ppm; sheep, fat at 0.3 ppm; sheep, meat byproducts at 3 ppm; and

hog, meat byproducts at 0.04 ppm. Tolerances are amended for egg at

0.03 ppm; poultry, meat at 0.02 ppm; poultry, fat at 0.01 ppm; and

poultry, meat byproducts at 0.06 ppm. The Agency is also amending the

tolerance for milk at 0.15 ppm.

V. Conclusion

Therefore, a tolerance is established for residues of fluopyram, N-

[2-[3-chloro-5-(trifluoromethyl)-2-pyridinyl]ethyl]-2-

(trifluoromethyl)benzamide, in or on coffee, green beans at 0.03 ppm,

and existing tolerances are amended to the following levels: Grain,

cereal, group 15, except corn and rice at 0.5 ppm; rapeseed subgroup

20A at 0.3 ppm; cattle, fat at 0.3 ppm; cattle, meat at 0.3 ppm;

cattle, meat byproducts at 3 ppm; egg at 0.03 ppm; goat, fat at 0.3

ppm; goat, meat at 0.3 ppm; goat, meat byproducts at 3 ppm; hog, fat at

0.01 ppm; hog, meat at 0.01 ppm; hog, meat byproducts at 0.04 ppm;

horse, fat at 0.3 ppm; horse, meat at 0.3 ppm; horse, meat byproducts

at 3 ppm; milk at 0.15 ppm; poultry, fat at 0.01 ppm; poultry, meat at

0.02 ppm; poultry, meat byproducts at 0.06 ppm; sheep, fat at 0.3 ppm;

sheep, meat at 0.3 ppm; sheep, meat byproducts at 3 ppm. For

transparency, the following list identifies the established tolerances

that are being amended to the levels listed above: Grain, cereal, group

15, except corn and rice at 4.0 ppm; rapeseed subgroup 20A at 5.0 ppm;

cattle, fat at 0.70 ppm; cattle, meat at 0.80 ppm; cattle, meat

byproducts at 7.5 ppm; egg at 0.08 ppm; goat, fat at 0.70 ppm; goat,

meat at 0.80 ppm; goat, meat byproducts at 7.5 ppm; hog, fat at 0.20

ppm; hog, meat at 0.02 ppm; hog, meat byproducts at 0.20 ppm; horse,

fat at 0.70 ppm; horse, meat at 0.80 ppm; horse, meat byproducts at 7.5

ppm; milk at 0.40 ppm; poultry, fat at 0.04 ppm; poultry, meat at 0.04

ppm; poultry, meat byproducts at 0.20 ppm; sheep, fat at 0.70 ppm;

sheep, meat at 0.80 ppm; and sheep, meat byproducts at 7.5 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) 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 action has been

exempted from review under Executive Order 12866, this action 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 action 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 FFDCA section 408(d), such as the tolerances 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 action 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 FFDCA section 408(n)(4). 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 action. In addition, this

action does not impose any enforceable duty or contain any unfunded

mandate as described under Title II of the Unfunded Mandates Reform Act

(UMRA) (2 U.S.C. 1501 et seq.).

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 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.),

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

the rule in the Federal Register. This action 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: February 11, 2022.

Catherine Aubee,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending

40 CFR chapter I as follows:

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PART 180--TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES

IN FOOD

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

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

0

2. In Sec. 180.661:

0

a. Amend paragraph (a)(1) by:

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i. Designating the table as Table 1 to Paragraph (a)(1)'';

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ii. Adding in alphabetical order the entry ``Coffee, green beans''; and

0

iii. Revising the entries ``Grain, cereal, group 15, except corn and

rice'' and ``Rapeseed subgroup 20A'';

0

b. Amend paragraph (a)(2) by:

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i. Designating the table as Table 2 to Paragraph (a)(2); and

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ii. Revising newly designated Table 2.

The additions and revisions read as follows:

Sec. 180.661 Fluopyram; tolerances for residues.

(a) \* \* \*

(1) \* \* \*

Table 1 to Paragraph (a)(1)

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Parts per

Commodity million

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\* \* \* \* \*

Coffee, green beans \2\..................................... 0.03

\* \* \* \* \*

Grain, cereal, group 15, except corn and rice............... 0.5

\* \* \* \* \*

Rapeseed subgroup 20A....................................... 0.3

\* \* \* \* \*

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\* \* \* \* \*

\2\ There are no U.S. registrations on coffee, green beans as of

February 18, 2022.

(2) \* \* \*

Table 2 to Paragraph (a)(2)

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Parts per

Commodity million

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Cattle, fat................................................. 0.3

Cattle, meat................................................ 0.3

Cattle, meat byproducts..................................... 3

Egg......................................................... 0.03

Goat, fat................................................... 0.3

Goat, meat.................................................. 0.3

Goat, meat byproducts....................................... 3

Hog, fat.................................................... 0.01

Hog, meat................................................... 0.01

Hog, meat byproducts........................................ 0.04

Horse, fat.................................................. 0.3

Horse, meat................................................. 0.3

Horse, meat byproducts...................................... 3

Milk........................................................ 0.15

Poultry, fat................................................ 0.01

Poultry, meat............................................... 0.02

Poultry, meat byproducts.................................... 0.06

Sheep, fat.................................................. 0.3

Sheep, meat................................................. 0.3

Sheep, meat byproducts...................................... 3

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