Commodity	Parts per million
Rutabaga, roots	0.01
Rutabaga, tops	0.1
* * * *	*
Turnip, greens	0.1
Turnip, roots	0.01
Turnip, tops	0.1
* * * *	*

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

(c) *Tolerances with regional registrations.* Tolerances with regional registration are established for residues of dimethenamid, 1 (R,S)-2-chloro-N-[(1-methyl-2-methoxy) ethyl]-N-(2,4-dimethylthien-3-yl)-acetamide) in or on the following raw agricultural commodities:

Commodity	Parts per million
Pumpkin	0.01
Squash, winter	0.01

* * * * *

[FR Doc. E7–25090 Filed 12–27–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0114; FRL–8343–2]

Fluroxypyr; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of fluroxypyr and its metabolite in or on pome fruit, group 11; millet (grain, forage, hay and proso millet straw). Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective December 28, 2007. Objections and requests for hearings must be received on or before February 26, 2008, 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–2007–0114. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in 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 (7505P), 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), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather 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 an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 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–2007–0114 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 February 26, 2008.

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–2007–0114, 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'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 4, 2007 (72 FR 16352) (FRL–8119–2), 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 6E7168) by Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.535 be amended by establishing tolerances for combined residues of the herbicide fluroxypyr, 1-methylheptyl ester [1-methylheptyl ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetate] and its metabolite fluroxypyr [((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetic acid], in or on pome, fruit, group 11 at 0.02 parts per million (ppm); millet, grain at 0.5 ppm; millet, forage at 12.0 ppm; millet, hay at 20.0 ppm; millet, proso, grain at 0.5 ppm; millet, proso, straw at 12.0 ppm; millet, proso, forage at 12.0 ppm; millet, proso, hay at 20.0 ppm; millet, pearl, grain at 0.5 ppm; millet, pearl, forage at 12.0 ppm; and millet, pearl, hay at 20.0 ppm. That notice referenced a summary of the petition prepared by Dow AgroSciences, the registrant, 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.

Based upon review of the data supporting the petition, EPA has determined that separate tolerances for proso and pearl millet grain, forage, and hay are not needed since these commodities are covered by the tolerances being established for millet grain, millet forage and millet hay.

EPA is also deleting all the tolerances in § 180.535(b) for field and sweet corn, onion, and sorghum commodities that are no longer needed since they have expired. The deletions under § 180.535(b) are time-limited tolerances that were established under section 18 emergency exemptions that have since expired and have been superceded by the establishment of general tolerances for the same commodities under § 180.535(a).

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. . . .'' These provisions were added to FFDCA by the Food Quality Protection Act (FQPA) of 1996.

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 tolerance for combined residues of fluroxypyr, 1-methylheptyl ester [1-methylheptyl ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetate] and its metabolite fluroxypyr [((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetic acid] on fruit, pome, group 11 at 0.02 ppm; millet, grain at 0.5 ppm; millet, forage at 12.0 ppm; millet, hay at 20.0 ppm and millet, proso, straw at 12.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by fluroxypyr as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studiescan be found at *http://www.regulations.gov* in document *Fluroxypyr: Human Health Risk Assessment to Support Proposed New Uses on Pome Fruits and Millet* at Attachment #2 page 27 - 30 in docket ID number EPA–HQ–OPP–2007–0114.

Fluroxypyr has low acute toxicity by the oral and dermal routes and moderate acute toxicity by the inhalation route. The kidney is the target organ for fluroxypyr following oral exposure to rats, mice, and dogs. In the rat, increased kidney weight and death were observed in both sexes in the 90–day feeding study, increased kidney weight and chronic progressive glomerulonephropathy were observed in both sexes in the chronic study. Increased kidney weight was observed in the maternal rat in the developmental toxicity study, and kidney effects (deaths due to renal failure; increased kidney weight, and microscopic kidney lesions) were observed in both sexes in the 2–generation reproduction study. Although kidney toxicity (early signs of acute tubular nephrosis) was observed in dogs in the 28–day feeding study, no kidney effects or other treatment related toxicity was seen in the chronic feeding study in dogs. Increased kidney lesions (increased incidences of renal papillary necrosis and regenerative nephrosis in females) were observed in mice following long-term exposure. Treatment related deaths were noted in maternal rats (600 milligrams/kilograms/day (mg/kg/day)) and rabbits (400 mg/kg/day). Endpoints for risk assessment were based on kidney effects seen in the database. There was no evidence of increased susceptibility (quantitative/qualitative) following *in utero* exposure to the acid and the ester in rats and rabbits, or following prenatal and/or postnatal exposure in rats. There are no neurotoxicity concerns from the acute and subchronic neurotoxicity studies, and the weight of the evidence indicates a lack of concern for developmental neurotoxicity. Therefore, a developmental neurotoxicity study (DNT) is not required. Fluroxypyr is classified as ''not likely'' as a human carcinogen and there was no concern for its mutagenicity potential.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from 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) is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the LOC 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 risks by comparing aggregate 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 LOC by all applicable UFs. Short-, intermediate-, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded.

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. 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/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

A summary of the toxicological endpoints for fluroxypyr used for human risk assessment can be found at *http://www.regulations.gov* in document *Fluroxypyr: Human Health Risk Assessment to Support Proposed New Uses on Pome Fruits and Millet* at page 11 in docket ID number EPA–HQ–OPP–2007–0114.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to fluroxypyr, EPA considered exposure from the petitioned-for tolerances as well as all existing fluroxypyr tolerances in (40 CFR 180.535). EPA assessed dietary exposures from fluroxypyr 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 single exposure.

No such effects were identified in the toxicological studies for fluroxypyr; 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 USDA 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, assumed all foods for which there are tolerances were treated and contain tolerance-level residues.

iii. *Cancer*. Based on the results of carcinogenicity studies in rats and mice, EPA has concluded that fluroxypyr is ''not likely to be carcinogenic to humans.'' Consequently, a quantitative cancer exposure and risk assessment is not appropriate for fluroxypyr.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for fluroxypyr in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the environmental fate characteristics of fluroxypyr. 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 Groundwater (SCI-GROW) models, the estimated environmental concentrations (EECs) of fluroxypyr for chronic exposures are estimated to be 3.28 ppb for surface water and 0.04 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 value of 3.28 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).

Fluroxypyr is currently registered for the following residential non-dietary sites: Application to residential turf grass and recreational sites such as golf courses, parks, and sports fields. EPA assessed residential exposure using the following assumptions:

Residential handlers may receive short-term dermal and inhalation exposure to fluroxypyr when mixing, loading and applying the formulations. However, toxicity by the dermal route of exposure is not expected; therefore only inhalation daily doses for residential handlers were calculated. Adults and children may be exposed to fluroxypyr residues from dermal contact with turf during post-application activities. Toddlers may receive short- and intermediate-term oral exposure from incidental ingestion during post-application activities. A dermal risk assessment for post-application exposures was not conducted because a dermal endpoint was not selected. Therefore, only the following post-application exposure scenarios resulting from lawn treatment were assessed:

i. Toddlers' incidental ingestion of pesticide residues on lawns from hand-to-mouth transfer,

ii. Object-to-mouth transfer from mouthing of pesticide-treated turfgrass, and

iii. Incidental ingestion of soil from pesticide-treated residential areas.

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.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to fluroxypyr and any other substances and fluroxypyr does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fluroxypyr has 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 of FFDCA provides that EPA shall apply an additional (''10X'') tenfold 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

FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional UFs and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. There was no evidence of increased susceptibility (quantitative/qualitative) following *in utero* exposure to the fluroxypyr in rats and rabbits, or following prenatal and/or postnatal exposure in rats. There are no neurotoxicity concerns from the acute and subchronic neurotoxicity studies, and the weight of the evidence indicates a lack of concern for developmental neurotoxicity.

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

i. The toxicity database for fluroxypyr is complete.

ii. There is no indication that fluroxypyr is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that fluroxypyr results in increased susceptibility in *in utero* 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% crop treated and tolerance-level residues. Conservative ground and surface water modeling estimates were used. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by fluroxypyr.

E. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the aPAD and cPAD. The aPAD and cPAD are calculated by dividing the LOC by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short-, intermediate-, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. None of the toxicology studies available for fluroxypyr indicated the possibility of an effect of concern occurring as a result of a single exposure; therefore, fluroxypyr 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 exposure to fluroxypyr from food and water will utilize 1.4% of the cPAD for children 1-2 years old, the subpopulation group with greatest exposure. Based on the use patterns, chronic residential exposure to residues of fluroxypyr is not expected.

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

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

Using the exposure assumptions described in this unit for short-term and intermediate-term exposures, EPA has concluded that food, water, and residential exposures aggregated result in aggregate MOEs of 4,400 to 53,000. The MOE for the U.S. population is 8,200. The most highly exposed subgroup was Children, 1-2 years old, with an MOE of 4,400.

4. *Aggregate cancer risk for U.S. population*. There was no evidence of carcinogenicity in two carcinogenicity studies in rats and mice with fluroxypyr. Therefore, fluroxypyr is considered ''Not likely to be carcinogenic to humans.'' Fluroxypyr is not expected to pose a cancer risk.

5. *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 fluroxypyr residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography/mass-selective detector (GC/MSD)) 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 no Codex, Canadian or Mexican MRLs for fluroxypyr for pome fruits or millet.

V. Conclusion

Therefore, tolerances are established for combined residues of fluroxypyr, 1-methylheptyl ester [1-methylheptyl ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetate] and its metabolite fluroxypyr [((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetic acid] in or on fruit, pome, group 11 at 0.02 ppm; millet, grain at 0.5 ppm; millet, forage at 12.0 ppm; millet, hay at 20.0 ppm and millet, proso, straw at 12.0 ppm.

Time-limited tolerances were established in 40 CFR 180.535(b) for residues of fluroxypyr on field and sweet corn, onion, and sorghum commodities in connection with FIFRA section 18 emergency exemptions granted by the EPA. All of these time-limited tolerances have expired and are no longer in force. Permanent tolerances have been established on these commodities in § 180.535(a). Because expired, time-limited tolerances for residues of fluroxypyr are without effect, this final rule removes them from EPA's regulations. EPA finds there is good cause to make this latter change without prior notice and comment because it eliminates obsolete portions of the regulation. EPA concludes notice and comment are unnecessary on such changes.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) 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 6, 2000) do not apply to this rule. In addition, This 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: December 14, 2007.

Lois Rossi,

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 180.535 is amended by alphabetically adding the following commodities to the table in paragraph (a), removing the expired time-limited tolerances in paragraph (b), and reserving it to read as follows:

§ 180.535 Fluroxypyr 1-methylheptyl ester; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * *	*
Fruit, pome, group 11	0.02
* * * *	*
Millet, forage	12.0
Millet, grain	0.5
Millet, hay	20.0
Millet, proso, straw	12.0
* * * *	*

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

* * * * *

[FR Doc. E7–25092 Filed 12–27–07; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 431, 433, and 440

[CMS–2287–F]

RIN 0938–AP13

Medicaid Program; Elimination of Reimbursement Under Medicaid for School Administration Expenditures and Costs Related to Transportation of School-Age Children Between Home and School

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: Under the Medicaid program, Federal payment is available for the costs of administrative activities ''as found necessary by the Secretary for the proper and efficient administration of the State plan.'' This final rule eliminates Federal Medicaid payment for the costs of certain school-based administrative and transportation activities because the Secretary has found that these activities are not necessary for the proper and efficient administration of the Medicaid State plan and are not within the definition of the optional transportation benefit. Based on these determinations, under this final rule, Federal Medicaid payments will no longer be available for administrative activities performed by school employees or contractors, or anyone under the control of a public or private educational institution, and for transportation from home to school. In addition, this final rule responds to public comments received on the September 7, 2007 proposed rule.

EFFECTIVE DATE: These regulations are effective on February 26, 2008.

FOR FURTHER INFORMATION CONTACT: Sharon J. Brown, (410) 786–0673, Judi Wallace, (410) 786–3197.

SUPPLEMENTARY INFORMATION: We published a proposed rule in the **Federal Register** on September 7, 2007, at 72 FR 51397 that would eliminate Federal Medicaid payment for school-based administrative activities, based on a Secretarial finding that such activities are not necessary for the proper and efficient administration of the Medicaid State plan. Moreover, the proposed rule would also eliminate Federal Medicaid payment based on a finding that transportation from home to school and back for school-age children is neither necessary for the proper and efficient administration of the Medicaid State