

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 FFDCA section 408(d), 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 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 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) (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 of 1995 (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: November 15, 2012.

**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. In § 180.466, paragraph (a), revise the introductory text, alphabetically add the following commodities and footnote 1 to the table to read as follows:

**§ 180.466 Fenpropathrin; tolerances for residues.**

(a) *General.* Tolerances are established for residues of fenpropathrin, including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified below is to be determined by measuring only fenpropathrin (alpha-cyano-3-phenoxy-benzyl 2,2,3,3-tetramethylcyclopropanecarboxylate).

Commodity	Parts per million
Acerola	3.0
* * *	*
Atemoya	1.5
* * *	*
Biriba	1.5
* * *	*
Cherimoya	1.5
* * *	*
Custard apple	1.5
* * *	*
Feijoa	3.0
* * *	*
Guava	3.0
* * *	*
llama	1.5
Jaboticaba	3.0
* * *	*
Longan	7.0
Lychee	7.0

Commodity	Parts per million
* * *	*
Passionfruit	3.0
* * *	*
Pulasan	7.0
Rambutan	7.0
* * *	*
Soursop	1.5
Spanish lime	7.0
* * *	*
Starfruit	3.0
* * *	*
Sugar apple	1.5
Tea, dried <sup>1</sup>	2.0
* * *	*
Wax jambu	3.0

<sup>1</sup> There are no U.S. registrations as of November 28, 2012, for the use of fenpropathrin on tea, dried.

\* \* \* \* \*

[FR Doc. 2012-28721 Filed 11-27-12; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2012-0060; FRL-9365-1]

**Dinotefuran; Pesticide Tolerances**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of dinotefuran in or on rice grain, egg, and poultry meat byproducts. Mitsui Chemicals Agro Inc., c/o Landis International, Inc., requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective November 28, 2012. Objections and requests for hearings must be received on or before January 28, 2013, 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-2012-0060, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West 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. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Rita Kumar, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 308-8291; email address: [kumar.rita@epa.gov](mailto:kumar.rita@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 Government Printing Office's e-CFR site at [http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

*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-2012-0060 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 January 28, 2013. 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-2012-0060, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (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 <http://www.epa.gov/dockets/contacts.htm>. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

**II. Summary of Petitioned-For Tolerance**

In the **Federal Register** of May 23, 2012, (77 FR 30481) (FRL-9347-8), 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 1F7953) by Mitsui Chemicals Agro, Inc., c/o Landis International Ltd., P. O. Box 5126, Valdosta, GA 31603. The petition requested that 40 CFR 180.603 be amended by establishing tolerances for residues of the insecticide dinotefuran (RS)-1-methyl-2-nitro-3-((tetrahydro-3-furyl)methyl)guanidine and its major metabolites DN, 1-methyl-3-((tetrahydro-3-furyl)methyl)guanidine and UF, 1-methyl-3-((tetrahydro-3-furyl)methyl)-urea, in or on rice, grain at 10 parts per million (ppm). That document referenced a summary of the petition prepared by Mitsui Chemicals Agro, Inc., the registrant, which is available 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

modified the level for which the tolerance is being established for rice, grain. EPA has also established tolerances for residues of dinotefuran in eggs and poultry, meat byproducts. The reason for these changes is explained in Unit IV.C.

**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 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 denotefuran including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with denotefuran 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.

Dinotefuran has low acute toxicity by oral, dermal, and inhalation exposure routes. It is not a dermal sensitizer, but causes a low level of skin irritation. The main target of toxicity is the nervous system but effects on the nervous system were only observed at high doses. Nervous system toxicity was manifested as clinical signs and

decreased motor activity seen after acute dosing (in both rats and rabbits) and changes in motor activity which are consistent with effects on the nicotinic cholinergic nervous system seen after repeated dosing. Typically, low to moderate levels of neonicotinoids, such as dinotefuran, activate the nicotinic acetylcholine receptors causing stimulation of the peripheral nervous system (PNS). High levels of neonicotinoids can over stimulate the PNS, maintaining cation channels in the open state which blocks the action potential and leads to paralysis.

Dinotefuran was well tolerated at high doses following dietary administration for 90 days to mice, rats, and dogs. The most sensitive effects were decreases in body weight and/or body weight gain but even these effects occurred at or near the limit dose. Changes in spleen and thymus weights were seen in mice, rats and dogs following subchronic and chronic dietary exposures. However, these weight changes were not corroborated with alterations in hematology parameters, histopathological lesions in these organs, or toxicity to the hematopoietic system. Furthermore, the toxicology data base contains immunotoxicity studies in mice and rats and a developmental immunotoxicity study in rats. In the immunotoxicity studies there were no effect on T-cell dependent antibody response when tested up to the limit dose in male and female mice and in male and female rats. There were no changes in spleen and thymus weight and there were no histopathological lesions in these organs in those studies. In the developmental immunotoxicity study, there was no evidence of an effect on the functionality of the immune system in rats that were exposed to dinotefuran at the limit dose during the prenatal, postnatal, and post-weaning periods. Consequently, the thymus weight changes seen in dogs and the spleen weight changes seen in mice and rats were not considered to be toxicologically relevant.

No systemic or neurotoxicity was seen following repeated dermal applications at the limit dose to rats for 28 days. No systemic or portal of entry effects were seen following repeated inhalation exposure at the maximum obtainable concentrations to rats for 28 days.

In the prenatal studies, no maternal or developmental toxicity was seen at the limit dose in rats. In rabbits, maternal toxicity manifested as clinical signs of neurotoxicity but no developmental toxicity was seen. In the reproduction study, parental, offspring, and reproductive toxicity was seen at the limit dose. Parental toxicity included decreased body weight gain, transient decrease in food consumption, and decreased thyroid weights. Offspring toxicity was characterized as decreased forelimb grip strength or hindlimb grip strength in the F<sub>1</sub> pups. There was no adverse effect on reproductive performance at any dose. In the developmental neurotoxicity study, no maternal or offspring toxicity was seen at any dose including the limit dose.

There was no evidence of carcinogenicity in male and female mice and in male and female rats fed diets containing dinotefuran at the limit dose for 78 weeks to mice and 104 weeks to rats. Dinotefuran was non-mutagenic in both *in vivo* and *in vitro* assays. Specific information on the studies received and the nature of the adverse effects caused by dinotefuran 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 document “Dinotefuran: Human Health Risk Assessment for Proposed Section 3 Uses on Rice and Food/Feed Handling Establishments, and New Horse Spot-On and Total Release Fogger Products,” at pages 40–45 in docket ID number EPA–HQ–OPP–2012–0060.

*B. Toxicological Points of Departure/ Levels of Concern*

Once a pesticide’s toxicological profile is determined, EPA identifies

toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). 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 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 dinotefuran used for human risk assessment is shown in Table 1 of this unit. The dinotefuran hazard profile was updated in the most recent risk assessment completed on July 20, 2012, and nothing has changed since that update. For a more detailed discussion of the endpoint selection, refer to Appendix A.3 on pages 44–47 in the document titled “Dinotefuran: Human Health Risk Assessment for Proposed Section 3 Uses on Tuberous and Corm Vegetables Subgroup 1C, Onion Subgroup 3–07A, Onion Subgroup 3–07B, Small Fruit Subgroup 13–07F, Berry Subgroup 13–07H, Peach, and Watercress, And a Tolerance on Imported Tea” in docket ID number EPA–HQ–OPP–2011–0433.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR DINOTEFURAN FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (General population including infants and children).	NOAEL = 125 mg/kg/day .. UF <sub>A</sub> = 10X ..... UF <sub>H</sub> = 10X ..... FQPA SF = 1X .....	aRfD = 1.25 mg/kg/day ..... aPAD = 1.25 mg/kg/day ....	Developmental Toxicity Study in Rabbits LOAEL = 300 mg/kg/day based on clinical signs in does (prone position, panting, tremor and erythema) seen following the first dose on Gestation Day 6.
Chronic dietary (All populations).	NOAEL= 99.7 mg/kg/day .. UF <sub>A</sub> = 10X ..... UF <sub>H</sub> = 10X ..... FQPA SF = 1X .....	cRfD = 1.0 mg/kg/day ..... cPAD = 1.0 mg/kg/day .....	Chronic Toxicity/Carcinogenicity Study in Rats LOAEL = 991 mg/kg/day based on decreased body weight gain and nephrotoxicity.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR DINOTEFURAN FOR USE IN HUMAN HEALTH RISK ASSESSMENT—Continued

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Incidental Oral Short-Term (1–30 days).	NOAEL= 99.7 mg/kg/day .. UF <sub>A</sub> = 10X ..... UF <sub>H</sub> = 10X ..... FQPA SF = 1X .....	LOC for MOE = 100 .....	Chronic Toxicity/Carcinogenicity Study in Rats LOAEL = 991 mg/kg/day based on decreased body weight gain and nephrotoxicity.

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF<sub>A</sub> = extrapolation from animal to human (interspecies). UF<sub>H</sub> = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to dinotefuran, EPA considered exposure under the petitioned-for tolerances as well as all existing dinotefuran tolerances in 40 CFR 180.603. EPA assessed dietary exposures from dinotefuran 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.

Such effects were identified for dinotefuran. In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture (USDA) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). This dietary survey was conducted from 2003 to 2008. As to residue levels in food, EPA assumed 100 percent crop treated (PCT) and tolerance-level residues for all current and proposed crops.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 Continuing Survey of Food Intake (CSFII). As to residue levels in food, EPA assumed 100 percent crop treated (PCT) and tolerance-level residues for all current and proposed crops.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that dinotefuran does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for dinotefuran. 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 dinotefuran in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of dinotefuran. 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 Tier 1 Rice Model and Screening Concentration in Ground Water (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of dinotefuran for acute exposures are estimated to be 269 parts per billion (ppb) for surface water and 4.9 ppb for ground water and for chronic exposures for non-cancer assessments are estimated to be 253–257 ppb, depending upon retention time from 10 to 30 days, for surface water and 4.9 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 269 ppb was used to assess the contribution to drinking water and for chronic dietary risk assessment, the water concentration of value 257 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).

Dinotefuran is currently registered for the following uses that could result in residential exposures: Turf, ornamentals, vegetable gardens, pet spot-ons, indoor aerosol sprays, crack and crevice sprays. EPA assessed residential exposure using the following assumptions: Each of these existing residential use patterns were reassessed in the latest human health risk assessment using the updated 2012

Residential Standard Operating Procedures and body weights. Refer to the document titled “Dinotefuran: Human Health Risk Assessment for Proposed Section 3 Uses on Tuberous and Corm Vegetables Subgroup 1C, Onion Subgroup 3–07A, Onion Subgroup 3–07B, Small Fruit Subgroup 13–07F, Berry Subgroup 13–07H, Peach, and Watercress, And a Tolerance on Imported Tea” in docket ID number EPA–HQ–OPP–2011–0433.

There are no non-dietary exposure scenarios associated with use on rice. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at <http://www.epa.gov/pesticides/trac/science/trac6a05.pdf>.

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 dinotefuran to share a common mechanism of toxicity with any other substances, and dinotefuran does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that dinotefuran 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 Web site 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 FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* In the pre-natal studies, no maternal or developmental toxicity was seen at the limit dose in rats. In rabbits, maternal toxicity manifested as clinical signs of neurotoxicity but no developmental toxicity was seen. In the rat reproduction study, parental, offspring, and reproductive toxicity was seen at the limit dose. Parental toxicity included decreased body weight gain, transient decrease in food consumption, and decreased thyroid weights. Offspring toxicity was characterized as decreased forelimb grip strength or hindlimb grip strength in the F<sub>1</sub> pups. There was no adverse effect on reproductive performance at any dose. In the developmental neurotoxicity study, no maternal or offspring toxicity was seen at any dose including the limit dose.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for dinotefuran is complete.

ii. The neurotoxic potential of dinotefuran has been adequately considered. Dinotefuran is a neonicotinoid and has a neurotoxic mode of pesticidal action. Consistent with the mode of action, changes in motor activity were seen in repeat-dose studies, including the subchronic neurotoxicity study. Additionally, decreased grip strength and brain weight was observed in the offspring of a multi-generation reproduction study albeit at doses close to the limit dose. For these reasons, a developmental neurotoxicity (DNT) study was required. The DNT study did not show evidence of a unique sensitivity of the developing nervous system; no effects on neurobehavioral parameters were seen in the offspring at any dose, including the limit dose.

iii. There is no evidence that dinotefuran 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 percent crop treated (PCT) and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to dinotefuran in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children for incidental oral exposures. These assessments will not underestimate the exposure and risks posed by dinotefuran.

#### *E. 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 PAD (aPAD) and chronic PAD (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 PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to dinotefuran will occupy 7.6 percent of the aPAD for all infants < 1 year old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to dinotefuran from food and water will utilize 3.9 percent of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of dinotefuran is not expected.

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).

Dinotefuran 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 dinotefuran.

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 790 for children for co-occurring post-application exposure resulting in the greatest exposure (i.e., from the potentially co-occurring use of the total release fogger product and the existing cat and dog spot-on uses. Because EPA's level of concern for dinotefuran is a MOE of 100 or below, these MOEs are not of 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). Intermediate-term exposure is not expected for the adult residential exposure pathway. Therefore, the intermediate-term aggregate risk would be equivalent to the chronic dietary exposure estimate. For children, intermediate-term incidental oral exposures could potentially occur from indoor uses. However, while it is possible for children to be exposed for longer durations, the magnitude of residues is expected to be lower due to dissipation or other activities. Since incidental oral short- and intermediate-term toxicity endpoints and points of departure are the same, the short-term aggregate risk estimate, which includes the highest residential exposure estimate (from turf), is protective of any intermediate-term exposures.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, dinotefuran is not expected to pose a cancer risk to humans.

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 dinotefuran residues.

## **IV. Other Considerations**

### *A. Analytical Enforcement Methodology*

Adequate enforcement methodology a high performance liquid chromatography/tandem mass spectrometry (HPLC/MS/MS method for the determination of residues of dinotefuran, and the metabolites DN, and UF; an HPLC/ultraviolet (UV) detection method for the determination of residues of dinotefuran; and HPLC/MS and HPLC/MS/MS methods for the determination of DN and UF) is

available to enforce the tolerance expression.

The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; email address: *residuemethods@epa.gov*.

**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 not established a MRL for dinotefuran for any of the commodities in this rule.

**C. Revisions to Petitioned-For Tolerances**

Use of the Organization of Economic Cooperation and Development tolerance calculation procedures indicates that the tolerances for residues in or on rice grain should be established at 9.0 ppm, instead of 10.0 ppm proposed by the registrant. The appropriate residue definition is rice, grain.

EPA has also concluded that poultry tolerances in egg and poultry meat byproducts at 0.01 ppm are now needed as a result of the increased dietary burden resulting from addition of rice grain and bran to the diet.

**V. Conclusion**

Therefore, tolerances are established for residues of dinotefuran, (R,S)-1-methyl-2-nitro-3-((tetrahydro-3-furanyl)methyl)guanidine, including its metabolites and degradates, in or on rice, grain at 9.0 ppm, and in or on egg and poultry, meat byproducts at 0.01 ppm.

**VI. Statutory and Executive Order Reviews**

This final rule 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 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 FFDCA section 408(d), 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 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 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) (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 of 1995 (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: October 26, 2012.

**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 180.603 is amended as follows:

- i. Add an entry for “rice, grain” in alphabetical order to the table in paragraph (a)(1).
- ii. Add entries for “egg” and “poultry, meat byproducts” in alphabetical order to the table in paragraph (a)(2).
- iii. Revise paragraph (b) to read as set forth below.

The added and revised text read as follows:

**§ 180.603 Dinotefuran, tolerances for residues.**

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

Commodity	Parts per million
* * * * *	
Rice, grain .....	9.0
* * * * *	

(2) \* \* \*

Commodity	Parts per million
* * * *	*
Egg .....	0.01
* * * *	*
Poultry, meat byproducts .....	0.01
* * * *	*

(b) Section 18 emergency exemptions.  
[Reserved]

\* \* \* \*

[FR Doc. 2012-28472 Filed 11-27-12; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

[Docket No. NHTSA-2010-0032]

RIN 2127-AK82

**Federal Motor Vehicle Safety Standards; Side Impact Protection**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule; correcting amendments.

**SUMMARY:** On August 24, 2011 we published a final rule responding to a petition for reconsideration of a final rule on the Federal motor vehicle safety standard for side impact protection. In today’s document, we correct a minor error in that rule. The agency is also correcting several typographical errors in the standard.

**DATES:** This rule is effective November 28, 2012.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Louis N. Molino, NHTSA Office of Crashworthiness Standards, telephone 202-366-1740. For legal issues, you may call Deirdre Fujita, NHTSA Office of Chief Counsel, telephone 202-366-2992. You may send mail to these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** This document makes two corrections to Federal Motor Vehicle Safety Standard (FMVSS) No. 214, “Side impact protection,” 49 CFR 571.214.

On September 11, 2007, NHTSA published a final rule adopting a pole test into FMVSS No. 214. Later, NHTSA published responses to petitions for reconsideration of parts of that rule, including a final rule published August 24, 2011 (76 FR 52880).<sup>1</sup> The August 24, 2011, document had a minor error, which we are correcting today. We are also making corrections to typographical errors in FMVSS No. 214 which occurred previously in the FMVSS No. 214 rulemaking.

**Correcting Amendments**

This notice makes minor corrections to FMVSS No. 214 in two areas. First, it removes S12.3.4(i) from the regulatory text of FMVSS No. 214. S12.3.4(i) contains obsolete instructions for leveling the head of a test dummy. In the preamble of the August 2011 final rule, NHTSA explained that it was moving head-leveling instructions contained in S12.3.4(i) to paragraph (h).<sup>2</sup> As a result of that move, S12.3.4(i) was no longer needed, but NHTSA inadvertently did not remove S12.3.4(i) from the regulatory text. To correct that error, we are removing and reserving S12.3.4(i), and making a conforming change to S12.3.4(j).

Second, the agency has identified minor typographical errors in several sections of FMVSS No. 214 that occurred in the past. These errors are related to the positioning of the 5th percentile adult female dummy. In three of the five sections, S12.3.2(c), S12.3.3(c) and S12.3.4(l), the “±” symbols for the discrete arm position settings were not set forth correctly, and in some instances extraneous text was inadvertently added when the amendments were printed in the Code of Federal Regulations. In S12.3.3(a)(4), the ± symbol was incorrectly represented by just a plus sign for the longitudinal centerline tolerance, and in S12.3.4(c), the metric unit of millimeters (mm) was used in both the metric tolerance of the seating reference point (SgRP) and its English conversion. This document corrects these errors.

This document also amends the authority citation for 49 CFR Part 571,

<sup>1</sup> See also 73 FR 32473 (June 9, 2008), and 75 FR 12123 (March 15, 2010).

<sup>2</sup> Note that a sentence in the preamble of the August 2011 final rule (76 FR at 52882, col. 2) stated: “Yet, as noted above for S12.3.2(a)(10), the instruction that was in S12.3.3(a)(9) and S12.3.4(h) (to ‘minimize the angle’) [emphasis added] has not been deleted but is now integrated into the procedures of S12.3.3(a)(9) and S12.3.4(h).” This sentence referred to incorrect section numbers and should have stated “Yet, as noted above for S12.3.2(a)(10), the instruction that was in S12.3.3(a)(10) and S12.3.4(i) [emphasis added] (to ‘minimize the angle’) has not been deleted but is now integrated \* \* \*.”

by changing the citation to the DOT regulation setting forth delegations made by the Secretary to Departmental officials.<sup>3</sup>

**List of Subjects in 49 CFR Part 571**

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, and Tires.

Accordingly, 49 CFR part 571 is corrected by making the following correcting amendments:

**PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

- 1. The authority citation for part 571 of title 49 is revised to read as follows:
  - Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.
- 2. Section 571.214 is amended by:
  - a. Revising S12.3.2(c), S12.3.3(a)(4), S12.3.3(c), S12.3.4(c);
  - b. Removing and reserving S12.3.4(i) and
  - c. Revising S12.3.4(j) and S12.3.4(l).
 The revisions read as follows:

**§ 571.214 Standard No. 214; Side impact protection.**

\* \* \* \* \*

S12.3.2 \* \* \*

(c) *Driver arm/hand positioning.* Place the dummy’s upper arm such that the angle between the projection of the arm centerline on the midsagittal plane of the dummy and the torso reference line is 45° ± 5°. The torso reference line is defined as the thoracic spine centerline. The shoulder-arm joint allows for discrete arm positions at 0, ± 45, ± 90, ± 135, and 180 degree settings where positive is forward of the spine.

\* \* \* \* \*

S12.3.3 \* \* \*

(a) \* \* \*

(4) Bench seats. Position the midsagittal plane of the dummy vertical and parallel to the vehicle’s longitudinal centerline and the same distance from the vehicle’s longitudinal centerline, within ± 10 mm (± 0.4 in), as the midsagittal plane of the driver dummy.

\* \* \* \* \*

(c) *Passenger arm/hand positioning.* Place the dummy’s upper arm such that the angle between the projection of the arm centerline on the midsagittal plane of the dummy and the torso reference line is 45° ± 5°. The torso reference line is defined as the thoracic spine centerline. The shoulder-arm joint allows for discrete arm positions at 0, ±

<sup>3</sup> See 77 FR 49964, August 17, 2012. Final rule updating Office of the Secretary of Transportation regulations delegating authority from the Secretary to Departmental officers.