(2) *Priority group 2.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(i) of this section. Projects within this priority group will be further prioritized the same as in paragraphs (a)(1)(i)(A) through (a)(1)(i)(H) of this section.

(3) *Priority group 3.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(ii) of this section.

(4) *Priority group 4.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(iii) of this section.

(5) *Priority group 5.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(iv) of this section. Projects within this priority group will be further prioritized the same as in paragraphs (a)(1)(iv)(A) through (a)(1)(iv)(F) of this section.

(6) *Priority group 6.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(v) of this section.

(7) *Priority group 7.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(vi) of this section.

(8) *Priority group 8.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(vii) of this section.

* * * * *

(d) Applications in each priority or subpriority group will be further prioritized based on the date the application was received in VA (the earlier the application was received, the higher the priority given). Projects will be prioritized under this paragraph after all prioritization is completed under the projects' priority or subpriority group, as specified in paragraph (a) of this section, and only if necessary to give separate priorities to applications that have the same priority ranking after the prioritization specified in paragraph (a) of this section is accomplished.

(e) If any State home in a State has been cited by a VA safety office, VA engineering office, or other VA office with responsibility for life and safety inspections; a State or local government agency (including a Fire Marshal); or an accrediting institution (including the Joint Commission on Accreditation of Healthcare Organizations) for conditions that threaten the lives or safety of one or more of the residents or program participants in the facility, the State must include in any application submitted under § 59.20 or its updates to such application its plan to address all such citations. If VA determines that the State's plan fails to set forth how it will address such citations in a reasonable period of time, then VA will prioritize all applications of such State as follows:

(1) Applications that meet the criteria of paragraph (a)(1) of this section, but do not meet the criteria of paragraphs (a)(1)(i) or (vii) of this section, will be prioritized in subpriority group 6 of priority group 1 (paragraph (a)(1)(vi) of this section).

(2) Applications not meeting the criteria for placement in priority group 1 (paragraph (a)(1) of this section) and not meeting the criteria of subpriority group 1 of priority group 1 (paragraph (a)(1)(i) of this section) will be prioritized in priority group 7 (paragraph (a)(7) of this section).

* * * * *

(h) Except for applications that must be included in subpriority group 1 of priority group 1, applications for projects with components that could be prioritized in more than one priority group will be placed in the priority group toward which the largest share of the cost of the project is allocated. Once the correct priority group is determined, applications for projects with components that could be prioritized in more than one subpriority group in that priority group will be placed in the subpriority group toward which the largest share of the cost of the project is allocated. For example, if a project for which 25 percent of the funds needed would address seismic issues and 75 percent of the funds needed would be for building construction in a State with a great need for new beds, the project would be placed in subpriority group 3. If the highest-cost component of an application for multiple projects does not meet the criteria for placement in priority group 1, subpriority group 1, because it is estimated to cost $400,000.00 or more, it will be prioritized based on the component with the next largest share of the cost.

* * * * *

[FR Doc. 2013–08366 Filed 4–9–13; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0092; FRL–9381–5]

Dinotefuran; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of dinotefuran in or on all food/feed items (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments. BASF Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective April 10, 2013. Objections and requests for hearings must be received on or before June 10, 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–2012–0092, 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, 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.*

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://www.ecfr.gov/cgi-bin/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–2012–0092 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 June 10, 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–2012–0092, 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 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 1F7967) by BASF Corporation, c/o Landis International Inc., P.O. Box 5126, 3185 Madison Highway, 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-furanyl)methyl)guanidine in or on food/feed commodities not covered by a higher tolerance at 0.01 parts per million (ppm). That document referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. * * *.''

Consistent with 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 dinotefuran including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with dinotefuran 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 ninety 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 effects 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 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_1 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'' pages 40–45 in docket ID number EPA–HQ–OPP–2012–0092.

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 (U/SF) 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 the Table of this unit. The dinotefuran hazard profile was updated in the risk assessment completed on July 20, 2012, and nothing has changed since this update. For a more detailed discussion of the endpoint selection, refer to Appendix A.3 on pp 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—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_A = 10x UF_H = 10x FQPA SF = 1x	Acute RfD = 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_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 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.
Incidental oral short-term (1 to 30 days).	NOAEL= 99.7 mg/kg/day. UF_A = 10x UF_H = 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 = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = 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 United States Department of Agriculture (USDA) under the National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA assumed 100 percent crop treated (PCT) and tolerance-level residues for all current crops.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA under NHANES/WWEIA. As to residue levels in food, EPA assumed 100 PCT and tolerance-level residues for all current 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 PCT 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 10–30 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. 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, roach and ant bait, pet spot-ons, indoor aerosol sprays, crack and crevice sprays, etc. EPA assessed residential exposure using the following assumptions: Because no dermal or inhalation endpoints were chosen for dinotefuran, post-application residential dermal and inhalation exposure scenarios were not assessed. As a result, risk assessments were only completed for post-application scenarios in which incidental oral exposures are expected. The post-application exposure and risk estimates for all existing residential uses resulted in risk estimates that are not of concern (MOEs ranged from 1,100 to 5,900,000). 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 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 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 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_1 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 were 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. As discussed in Unit III.D.2., 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 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 post-application exposure of children from 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% 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 of the cPAD for children 1–2 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. 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 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 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; 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.

V. Conclusion

Therefore, a tolerance of 0.01 ppm is established for residues of dinotefuran, (RS)-1-methyl-2-nitro3-((tetrahydro-3-furanyl)methyl)guanidine, including its metabolites and degradates, in or on all food and/or feed commodities (other than those already covered by a higher tolerance as a result of use on growing crops or inadvertent residues) in food and/or feed handling establishments where food and/or feed products are held, stored, processed, prepared, or served. Compliance with the tolerance level is to be determined by measuring only dinotefuran.

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: April 2, 2013.

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 by adding paragraph (a)(3) to read as follows:

§ 180.603 Dinotefuran; tolerances for residues.

(a) * * *

(3) A tolerance of 0.01 parts per million is established for residues of the insecticide dinotefuran, (*RS*)-1-methyl-2-nitro-3-((tetrahydro-3-furanyl)methyl)guanidine, including its metabolites and degradates, in or on all food and/or feed commodities (other than those covered by a higher tolerance as a result of use on growing crops or inadvertent residues) when residues result from application of dinotefuran in food and/or feed handling establishments where food and/or feed products are held, stored, processed, prepared, or served. Compliance with the tolerance level is to be determined by measuring only dinotefuran.

* * * * *

[FR Doc. 2013–08400 Filed 4–9–13; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2013–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.