economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with nicotine-containing compounds used as insecticides or the insecticide nicotine. Furthermore, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis.

In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VI. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, 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: May 2, 2002.

Joseph J. Merenda,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 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), 346(a) and 371.

2. Section 180.167 is revised to read as follows:

§ 180.167 Nicotine-containing compounds; tolerances for residues.

(a) *General.* Tolerances are established for residues of nicotine-containing compounds used as insecticides in or on the following raw agricultural commodities:

Commodity	Parts per million
Cucumber	2.0
Lettuce	2.0
Tomato	2.0

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

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.167a [Removed]

3. Section 180.167a is removed.

[FR Doc. 02–12423 Filed 5–21–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0052; FRL–7178–6]

Trifloxystrobin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for trifloxystrobin regulated as trifloxystrobin and the free form of its acid metabolite CGA–321113 in or on fruit, stone, group; nut, tree, group; pistachio; corn, field, grains; corn, field, forage; corn field stover; corn, field, refined oil; corn, pop, grain; corn, pop, stover; rice, grain; rice, hulls; rice, straw; citrus, dried pulp; citrus oil; fruit, citrus, group; egg; poultry, fat; poultry, meat; and poultry, meat by products. Bayer, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective May 22, 2002. Objections and requests for hearings, identified by docket control number OPP–2002–0052, must be received by EPA on or before July 22, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION** section. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–2002–0052 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 305–7740 and e-mail address: giles-parker.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under the section **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'', ''Regulations and Proposed Rules'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr 180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0052. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of November 14, 2001 (66 FR 57074) (FRL–6806–6), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) 0F6121 for tolerances by Bayer Corporation, 8400 Hawthorn Road, P.O. Box 4913, Kansas City, MO 64121–0013. This notice included a summary of the petition prepared by Bayer Corporation, the registrant. No comments were received in response to the amendment.

The petition requested that 40 CFR 180.555 be amended by establishing tolerances for combined residues of the fungicide trifloxystrobin and the free form of its acid metabolite CGA–321113, in or on fruit, stone, group at 2 parts per million (ppm); nut, tree, group at 0.05 ppm; pistachio at 0.05 ppm; corn, field, grains at 0.05 ppm; corn, field, forage at 0.05 ppm; corn, field, stover at 7 ppm; corn, field, refined oil at 0.1 ppm; corn, pop, grain at 0.05 ppm; corn, pop, stover at 7 ppm; rice, grain at 3.5 ppm; rice, hulls at 8 ppm; rice, straw at 7.5 ppm; citrus, dried pulp at 0.8 ppm; citrus, oil at 7 ppm; fruit, citrus, group at 0.3 ppm; egg at 0.04 ppm; poultry, fat; and poultry, meat; poultry, kidney; poultry, liver; and poultry, meat by products at 0.05 ppm. Bayer, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

Section 408(b)(2)(A)(i) of the 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) 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) 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....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with 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 trifloxystrobin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for combined residues of trifloxystrobin and the free form of its acid metabolite CGA–321113 on fruit, stone, group at 2 ppm; nut, tree, group at 0.04 ppm; pistachio at 0.04 ppm; corn, field, grains at 0.05 ppm; corn, field, forage at 0.2 ppm; corn, field, stover at 7 ppm; corn, field, refined oil at 0.1 ppm; corn, pop, grain at 0.05 ppm; corn, pop, stover at 7 ppm; rice, grain at 3.5 ppm; rice, hulls at 8 ppm; rice, straw at 7.5 ppm; citrus, dried pulp at 0.8 ppm; citrus oil at 30 ppm; fruit, citrus, grroup at 0.3 ppm; egg at 0.04 ppm; poultry, fat at 0.04 ppm; poultry, meat at 0.04 ppm; poultry, meat by products at 0.04 ppm. In examining the data for corn field forage and citrus oil the Agency found that the residue data supports a higher tolerance than was proposed. EPA's assessment of the dietary 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. The nature of the toxic effects caused by trifloxystrobin

and the free form of its acid metabolite CGA–321113 are discussed below as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

1. *Subchronic-feeding study—rat.* The No Observed Adverse Effects Level (NOAEL) was 500 ppm (30.6–32.8 mg/kg/day). Decreased body weight, hypertrophy of hepatocytes in males and pancreatic atrophy were observed at the Lowest Observed Adverse Effects Level (LOAEL) of 2,000 ppm (127–133 mg/kg/day).

2. *Subchronic-feeding study—mouse.* The NOAEL was 500 ppm (76.9–110 mg/kg/day). Increased liver weights and necrosis of hepatocytes were observed at the LOAEL of 2,000 ppm (315–425 mg/kg/day).

3. *Subchronic-feeding study—dog.* The NOAEL was 30 mg/kg/day. Increased liver weight and hepatocyte hypertrophy in males were observed at the LOAEL of 150 mg/kg/day.

4. *28–day dermal toxicity study—rat.* The NOAEL was 100 mg/kg/day. Increased liver and kidney weight were observed at the LOAEL of 1,000 mg/kg/day.

5. *Developmental toxicity study—rat.* The maternal NOAEL was 10 mg/kg/day. Decreased body weight gain and food consumption were observed at the maternal LOAEL of 100 mg/kg/day. The developmental NOAEL was 1,000 mg/kg/day. No developmental effects were observed. The developmental LOAEL was equal to or greater than 1,000 mg/kg/day.

6. *Developmental toxicity study—rabbit.* The maternal NOAEL was 10 mg/kg/day. Decreased mean body weights and decreased mean body weight gain (compared to control), food consumption and efficiency were observed at the maternal LOAEL of 50 mg/kg/day. The developmental NOAEL was 250 mg/kg/day. Skeletal anomolies were observed at the Developmental LOAEL of 500 mg/kg/day.

7. *Reproductive toxicity study—rat.* The parental NOAEL was 50 ppm (3.8 mg/kg/day). Decreased mean body weight and decreased mean weight gain (compared to control), decreased food consumption, and increased incidence of liver, kidney and spleen effects were observed at the parental LOAEL of 750 ppm (55.3 mg/kg/day). The reproductive NOAEL was 1,500 ppm (110.6 mg/kg/day). The reproductive LOAEL was greater than 1,500 ppm (110.6 mg/kg/day).

8. *Chronic-feeding study—dog.* The NOAEL was 5 mg/kg/day. Increased clinical signs, increased liver weight and hepatocellular hypertrophy were observed at the LOAEL of 50 mg/kg/day.

9. *Carcinogenicity study—mouse.* The NOAEL was 300 ppm (39.4 mg/kg/day). Liver effects were observed at the LOAEL of 1,000 ppm (131.1 mg/kg/day).

10. *Chronic toxicity/carcinogenicity study—rat.* The NOAEL was 250 ppm (9.81–11.37 mg/kg/day). Decreased mean body weight and decreased mean body weight gain (compared to control) were observed at the LOAEL of 750 ppm (29.7–34.5 mg/kg/day).

11. *Gene mutation study—Salmonella.* Negative.

12. *Gene mutation study—Chinese Hamster Cultured V–79.* Positive.

13. *Structural chromosome aberration-micronucleus study—mouse.* Negative.

14. *Structural chromosome aberration-cytogenetics study—Chinese Hamster.* Negative.

15. *DNA Repair study-hepatocytes—rat.* Negative.

16. *Acute oral neurotoxicity study—rat.* The NOAEL and LOAEL could not be determined.

17. *Metabolism study—rat.* The tissue half-lives ranged from 13 to 42 hours. The highest residues were found in liver, kidneys, spleen and blood. The parent compound was extensively metabolized to approximately 35 metabolites.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect 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. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for trifloxystrobin used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR TRIFLOXYSTROBIN FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose(mg/kg/day)	Endpoint	Study
Acute Dietary [a] Females 13–50 only	NOAEL = 250 UF = 100	Increased fetal skeletal anomalies.	Developmental Toxicity - Rabbit

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR TRIFLOXYSTROBIN FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose(mg/kg/day)	Endpoint	Study
Chronic Dietary [b] General population	NOAEL = 3.8 ..... UF = 100	Decreased pup body weights during lactation.	Reproductive Toxicity - Rat
Short-Term and Intermediate-Term (Dermal)	Dermal NOAEL= 100.	Increases in liver and kidney weights.	28-Day Dermal Toxicity Study in Rats
Long-Term (Dermal)[c]	Oral NOAEL = 5	Increased incidence of clinical signs, increased mean liver weight, and hepatocellular hypertrophy.	Chronic Toxicity - Dog
Short-, Intermediate- and Long-Term (Inhalation)[d]	Oral NOAEL = 3.8 ...	Decreased pup body weights during lactation.	Reproductive Toxicity - Rat
Short-Term and Intermediate-Term (Incidental Oral)	Oral NOAEL = 3.8 ...	Decreased pup body weights during lactation.	Reproductive Toxicity - Rat

[a] Acute RfD=2.5 mg/kg
[b] Chronic RfD=0.038 mg/kg/day
[c] Since an oral NOAEL was selected, a dermal absorption factor of 33% should be used for route-to-route extrapolation.
[d] Since an oral NOAEL was selected, inhalation absorption factor of 100% should be used for route-to-route extrapolation.

C. Exposure assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established for the combined residues of trifloxystrobin and the free form of its acid metabolite CGA–321113 on several commodities; including almonds, bananas, sugarbeets, pomefruit, grapes, peanuts, potatoes, cucurbit vegetables, fruiting vegetables, and wheat. The Agency conducted a new assessment incorporating these commodities and the following additional tolerances: fruit, stone, group at 2 ppm; nut, tree, group at 0.04 ppm; pistachio at 0.04 ppm; corn, field, grains at 0.05 ppm; corn, field, forage at 0.2 ppm; corn, field, stover at 7 ppm; corn, field, refined oil at 0.1 ppm; corn, pop, grain at 0.05 ppm; corn, pop, stover at 7 ppm; rice, grain at 3.5 ppm; rice, hulls at 8 ppm; rice, straw at 7.5 ppm; citrus, dried pulp at 0.8 ppm; citrus oil at 30 ppm; fruit, citrus, group at 0.3 ppm; egg at 0.04 ppm; poultry, fat at 0.04 ppm; poultry, meat at 0.04 ppm; poultry, meat by products at 0.04 ppm. Risk assessments were conducted by EPA to assess dietary exposures from trifloxystrobin in food as follows:

i. *Acute exposure.* The acute dietary exposure analysis for trifloxystrobin is a Tier 1 assessment because no additional data were used to refine the analysis. One hundred percent of proposed and registered crops are assumed treated with trifloxystrobin (100% CT) and tolerance-level residues were used in the analysis. The acute dietary endpoint (increased fetal incidence of fused sternebrae) is only applicable to the population subgroup Females 13–50 years old. An acute dietary endpoint for the general population including infants and children was not identified. The estimated dietary exposure for females 13–50 years old occupies less than 1 percent of the acute PAD and does not exceed EPA's level of concern.

TABLE 2.—RESULTS OF ACUTE DIETARY EXPOSURE ANALYSIS AT THE 95TH PERCENTILE OF EXPOSURE

Population Subgroup	aPAD (mg/kg/day)	Exposure (mg/kg/day)	% aPAD
Females 13–50 years old	2.5	0.011587	0.46

ii. *Chronic exposure.* The chronic dietary exposure analysis for trifloxystrobin is a Tier 1 assessment because no additional data were used to refine the analysis. One hundred percent of proposed and registered crops are assumed treated with trifloxystrobin (100% CT) and tolerance-level residues were used in the analysis. The chronic dietary endpoint applies to all population subgroups including infants and children. A listing of the subgroups with the highest exposure are reported below in Table 3.

The results of the chronic dietary analysis show that risk ranges from 9% of the cPAD for adult males (20 years and older), to 39% of the cPAD for all infants (<1 year). Risk estimates for all population subgroups are below EPA's level of concern (100% of the cPAD).

TABLE 3.—RESULTS OF CHRONIC DIETARY EXPOSURE ANALYSIS

Population Subgroup	cPAD (mg/kg/day)	Exposure (mg/kg/day)	% cPAD
U.S. Population (total)	0.038	0.00503	13
All Infants (< 1 year)	0.038	0.015	39
Children 1–6 years	0.038	0.014	37
Children 7–12 years	0.038	0.0069	18
Females 13–50	0.038	0.0036	9.3
Males 13–19	0.038	0.0035	9.1
Males 20+ years	0.038	0.0034	9.0
Seniors 55+	0.038	0.0039	10

iii. *Cancer.* Trifloxystrobin was classified as a ''not likely human carcinogen.'' Therefore, a cancer risk assessment was not conducted.

2. *Water exposure.* Trifloxystrobin is immobile, degrades and transforms rapidly, in soil (half life is about 2 days) and aquatic environments (half life is about 15–55 days), mostly to a series of isomers and the primary acid metabolite, CGA–321113. The major isomer forms at the average rate of 80% of the applied parent, is persistent, (half life is about 301 days), and soluble, 30.9 ppm and is also mobile. The major degradate minimum Koc is 49, the median Koc is 127 and is also stable to hydrolysis. The major degradate, CGA–321113 is persistent and mobile and has a potential to leach into groundwater. CGA–321113 has been found in the soil profile at the 36 inch depth.

Estimated environmental concentrations (EECs) were calculated for total trifloxystrobin residues (parent trifloxystrobin and its major degradate, CGA–321113) using EPA's FIRST model for surface water and the screeninig concentration in ground water (SCI-GROW) model. EPA's interim method for drinking water estimates for pesticides used in rice paddies was also used to generate EECs. No degradation process of the chemical and no dilution with uncontaminated water outside of the paddy were taking into account. The rice estimates are ''expected to vastly exceed the 'true' values found in the environment, especially for trifloxystrobin, since available environmental fate data show that this compound degrades fairly rapidly in water and soil.''

EECs were estimated for total trifloxystrobin residues because the environmental fate studies indicated that the parent compound forms transformation compounds (isomers) which are similar in structure to the parent under most conditions. Further, the EPA concluded that both trifloxystrobin and the free form of its acid metabolite CGA–321113 are of concern for both regulatory and risk assessment purposes for plant and livestock commodities.

The use site with the highest application rate is turfgrass, with a maximum label rate of 1.078 pounds active ingredient per acre per year (lbs/ai/ac/yr) (three applications at 0.359 lbs/ai/ac/yr). Drinking water estimates were also provided for rice paddies that may be treated with trifloxystrobin.

Surface water concentrations of trifloxystrobin and its major degradate CGA–321113 are 92 parts per billion (ppb) for the peak value (acute) and 50 ppb for the chronic value using the FIRST model. The groundwater screening concentration to be used for both acute and chronic assessments is 3.4 ppb. These values represent upper-bound estimates of the concentrations of total residues of trifloxystrobin that might be found in surface water and groundwater from the use of trifloxystrobin on turfgrass at the maximum application rate.

3. *Non-dietary exposure.* Trifloxystrobin's residential uses include turfgrass/ornamental disease control (Compass®). Because the FQPA requires consideration of aggregate exposure to all likely non-occupational uses, this assessment uses non-occupational postapplication contact with trifloxystrobin following Compass® use on turfgrass as the most common and worst case contributor to such exposures. The margin of exposure (MOEs) for applicable residential scenarios (i.e., postapplication dermal exposure from pesticide residues on lawns, incidental non-dietary ingestion of pesticide residues on lawns from hand-to-mouth transfer, incidental non-dietary ingestion of residues from pesticide-treated turfgrass from object-to-mouth activities, and incidental non-dietary ingestion of soil from pesticide-treated residential areas) were calculated separately, and then combined.

i. *Residential handler.* This current petition does not propose residential uses for trifloxystrobin. However, the label for the trifloxystrobin product, Compass® , includes residential use on turfgrass and ornamentals. This product may only be applied by a Certified Pest Control Operartor (PCO), not by homeowners directly.

ii. *Postapplication.* There is potential for dermal (adults and children) and oral exposure (children only) during postapplication activities. The following postapplication exposure scenarios resulting from lawn treatment were assessed: (1) Dermal exposure from pesticide residues on lawns, (2) incidental non-dietary ingestion of pesticide residues on lawns from hand-to-mouth transfer, (3) incidental non-dietary ingestion of residues from object-to-mouth activities (pesticide-treated turfgrass), and (4) incidental non-dietary ingestion of soil from pesticide-treated residential areas. Postapplication exposures from various activities following lawn treatment are considered to be the most common and significant in residential settings. Exposure via incidental non-dietary ingestion involving other plant material may occur but is expected to result in much less exposure than the four exposure scenarios listed above.

The exposure and risk estimates for the four residential exposure scenarios are assessed for the day of application (day ''0'') because it is assumed that adults and toddlers could contact the lawn immediately after application. On

the day of application, it was assumed that 5 percent of the application rate is available from the turfgrass as transferrable residue (20 percent for object-to-mouth activities). Intermediate-term exposure (1 to 6 months) is not expected based on trifloxystrobin's short half-life in soil (about 2 days). Chronic or long-term (continuous exposure over more than 6 months) exposure is not expected. The short-term MOEs for adults and children are above 100, they DO NOT exceed EPA's level of concern.

iii. *Recreational.* Trifloxystrobin may be used on turf at recreational use sites, and, therefore may result in postapplication exposure to adults and children involved in recreational activities. Exposures to adults and children from the use of trifloxystrobin at recreational use sites are assumed to be the same as those assessed for residential use sites. Residential turf exposure assessment results in what are considered upper bound risk estimates. Therefore, it is not expected that the upper bound residential exposure scenario would occur on the same day as an upper bound recreational exposure scenario. Exposure from these two exposure scenarios are not aggregated. Rather, the residential risk estimate should serve as an upper bound for both residential and recreational exposure.

Postapplication exposures from various activities following lawn treatment are considered to be the most common and significant in residential settings. There is potential for dermal (adults and children) and oral exposure (children only) during postapplication activities. Four postapplication exposure scenarios resulting from lawn treatment were assessed. Postapplication exposure and risk estimates for adults and children resulted in MOE's that were above 100 and all risks were considered below EPA's level of concern.

iv. *Other exposure sources.* Spray drift is always a potential source of exposure to residents nearby to spraying operations. This is particularly the case with aerial application, but, to a lesser extent, could also be a potential source of exposure from the groundboom application. The Agency has been working with the Spray Drift Task Force, EPA Regional Offices and State Lead Agencies for pesticide regulation and other parties to develop the best spray drift management practices. The Agency is now requiring interim mitigation measures for aerial applications that must be placed on product labels/labeling. The Agency has completed its evaluation of the new database submitted by the Spray Drift Task Force, a membership of U.S. pesticide registrants, and is developing a policy on how to appropriately apply the data and the AgDRIFT computer model to its risk assessments for pesticides applied by air, orchard airblast and ground hydraulic methods. After the policy is in place, the Agency may impose further refinements in spray drift management practices to reduce off-target drift and risks associated with aerial as well as other application types where appropriate.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) 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.'' Trifloxystrobin belongs to a new class of fungicides, the MAEs (beta-methoxyacryl esters), which are synthetic analogs of strobilurin A, an antifungal secondary metabolite of the fungus *Strobilurus tenacellus*. Trifloxystrobin works by interfering with respiration in plant pathogenic fungi. The site of action of strobilurin compounds is located in the mitochondrial respiration pathway between cytochromes b and c1 at the level of the hydroquinone binding site. As a result of this mode of action, trifloxystrobin is a potent inhibitor of fungal spore germination and mycelial growth. Trifloxystrobin can be referred to more specifically as an oximinoacetate.

EPA does not have, at this time, available data to determine whether trifloxystrobin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, trifloxystrobin 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 trifloxystrobin has a common mechanism of toxicity with other substances. For information regarding EPA efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

EPA determined the 10x safety factor for the protection of infants and children should be removed for the following reasons:

1. The toxicology database is complete for FQPA assessment.

2. There is no indication of increased susceptibility of rat or rabbits to trifloxystrobin. In the developmental and reproductive toxicity studies, effects in the fetuses/offspring were observed only at or above treatment levels which resulted in evidence of parental toxicity.

3. It was determined that a developmental neurotoxicity study in rats is not required.

4. The exposure assessments will not underestimate the potential dietary (food and drinking water) or nondietary exposures for infants and children from the use of trifloxystrobin.

E. Aggregate Risks and Determination of Safety

Acute and chronic aggregate risk estimates were calculated in this risk assessment. Acute aggregate risk was calculated by comparing acute drinking water levels of concern (DWLOCs) to potential drinking water exposure to trifloxystrobin. Similarly, chronic aggregate risk was calculated by comparing chronic DWLOCs to potential drinking water exposure.

Short-term aggregate risk estimates were also calculated. Short-term risk is based on exposures occurring over 1 to 30 days. Short-term aggregate risk was calculated by combining risk estimates for high-end residential oral and/or dermal exposures with chronic food and drinking water risks. Intermediate-term risk is based on 30 to 180 days of exposure (1 to 6 months). Intermediate-term exposure is not expected to occur based on the short soil half-life (about 2 days). Chronic non-dietary aggregate risk was not calculated as chronic dermal and oral exposures (from residential treatment) are not expected. Cancer aggregate risk was not calculated because trifloxystrobin is classified as ''not likely human carcinogen.''

1. *Acute risk (food + drinking water).* The acute aggregate risk assessment takes into account exposure estimates from dietary consumption of trifloxystrobin from food and drinking water sources. The acute risk estimate for Females 13–50 years, resulting from aggregate exposure to trifloxystrobin in food and drinking water is below EPA's level of concern. Acute aggregate risk was not calculated for the U.S. population including infants and

children or other population subgroups as EPA did not identify an endpoint for risk assessment for those groups.

The surface and groundwater EECs were used to compare against back-calculated DWLOCs for aggregate risk assessments. To calculate the DWLOC for acute exposure relative to an acute toxicity endpoint, the acute dietary food exposure (from DEEM®) was subtracted from the aPAD to obtain the acceptable acute exposure to trifloxystrobin in drinking water. The acute DWLOCs are listed in the following Table 4:

TABLE 4.—DWLOCS FOR ACUTE DIETARY EXPOSURE TO TRIFLOXYSTROBIN

Population Subgroup[1]	Acute PAD (mg/kg/day)	Food Exposure (mg/kg/day)	Max. Water Exposure (mg/kg/day)[2]	Rice Surface Water (µg/L)[3]	Ground Water (µg/L)[3]	DWLOC (µg/L)[4]
Females (13–50 years)	2.5	0.012	2.5	48	3.4	75,000

[1] Within each of these subgroups, the subpopulation with the highest (acute) food exposure having an adequately representative number of samples was selected EPA default body weight is 60 kg for females (13+ years old).
[2] Maximum Water Exposure (mg/kg/day) = Acute PAD (mg/kg/day) - Acute Food Exposure.
[3] Estimate for the highest use rate was chosen.
[4] DWLOC (µg/L) = [Maximum water Exposure (mg/kg/day) x body wt (kg)] ÷ [(10^{-3} mg/µg) x water consumed daily (L/day)]. µg/L = parts per billion. EPA default daily drinking rate is 2 L/day for adults.

For the acute aggregate risk scenario, food and drinking water exposures were taken into account. DWLOCs were calculated for females (13–50 years old) the only subgroup to which the acute dietary endpoint applies. The DWLOC was 75,000 ppb for females. This value is well above the EECs for drinking water, and therefore, acute aggregate risk is below EPA's level of concern.

2. *Short-term risk (food + drinking water + residential).* The short-term aggregate risk assessment estimates risks likely to result from 1– to 30–day exposure to trifloxystrobin residues are from food, drinking water, and residential pesticide uses. High-end estimates of residential exposure are used in the short-term assessment, while average values are used for food and drinking water exposure (i.e. chronic exposures).

A short-term risk assessment is required for adults because there is a residential exposure scenario (postapplication only). In addition, a short-term risk assessment is required for infants and children because there are residential post-application dermal and oral exposure scenarios. Toddlers' incidental oral exposure is assumed to include hand-to-mouth exposure, object-to-mouth exposure and exposure through incidental ingestion of soil.

Different endpoints were identified by EPA for short-term incidental oral and dermal risk assessment. The basis for the oral endpoint is reduced pup body weights and the dermal endpoint is based on increases in liver and kidney weights. Therefore, it is not possible to combine the exposure from both dietary/oral exposure with that from dermal exposure.

For the short-term aggregate risk scenario, food, drinking water and residential exposures are taken into account. DWLOCs were calculated for the U.S. population, males (13–19 years old), all infants (less than 1 year old) and females (13–50 years old). DWLOCs ranged from 170 ppb for all infants to 1,200 pbb for the U.S. population and males (13–19 years old). These values are above the EECs for drinking water and therefore, short-term aggregate risk is below EPA's level of concern.

3. *Intermediate-term risk.* The intermediate-term aggregate risk assessment estimates risks likely to result from 1 to 6 months of exposure (30 to 180 days) to trifloxystrobin residues from food, drinking water, and residential pesticide uses. High-end estimates of residential exposure are used in the short-term assessment, while average values are used for food and drinking water exposure (i.e. chronic exposures).

Intermediate-term exposure is not expected to occur based on the short soil half-life (about 2 days). Therefore, an intermediate-term aggregate risk assessment was not performed.

4. *Chronic risks.* The chronic aggregate risk assessment takes into account exposure estimates from dietary consumption of trifloxystrobin from food and drinking water sources. Chronic risk estimates resulting from aggregate exposure to trifloxystrobin in food and drinking water are below EPA's level of concern from all population subgroups.

The surface and groundwater EECs were used to compare against back-calculated DWLOCs for aggregate risk assessments. To calculate DWLOCs for chronic exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DEEM®) was subtracted from the cPAD to obtain the acceptable chronic exposure to trifloxystrobin in drinking water. The chronic DWLOCs are listed in the following Table 5:

TABLE 5.—DWLOCS FOR CHRONIC DIETARY EXPOSURE TO TRIFLOXYSTROBIN.

Population Subgroup[1]	Chronic PAD (mg/kg/day)	Food Exposure (mg/kg/day)	Max. Water Exposure (mg/kg/day)[2]	Rice Surface Water (µg/L)[3]	Ground Water (µg/L)[3]	DWLOC (µg/L)[4]
U.S. Population	0.038	0.00503	0.033	140	3.4	1,200
Males (13–19 years)	0.038	0.0035	0.035	140	3.4	1,200
All Infants (< 1 year)	0.038	0.015	0.023	140	3.4	230
Females (13–50 years)	0.038	0.0036	0.034	140	3.4	1,000

[1] Within each of these subgroups, the subpopulation with the highest food exposure having an adequately representative number of samples was selected EPA default body weights are: General U.S. Population, 70 kg; Females (13+ years old), 60 kg; and, All Infants/Children, 10 kg.
[2] Maximum Water Exposure (mg/kg/day) = Chronic PAD (mg/kg/day) - Chronic Food Exposure.
[3] Estimate for the highest use rate was chosen.

[4] DWLOC (µg/L) = [Maximum water Exposure (mg/kg/day) x body wt (kg)] ÷ [(10^{-3} mg/µg) x water consumed daily (L/day)]. µg/L = parts per billion. EPA default daily drinking rates are 2 L/day for Adults and 1 L/day for Infants/Children.

Chronic DWLOCs for all population subgroups are above the estimated concentrations of trifloxystrobin and its metabolites in drinking water, and are therefore not of concern.

5. *Aggregate cancer risk.* Not applicable. There is no evidence of carcinogenicity.

6. *Determination of safety.* EPA concludes with reasonable certainty that aggregate exposure from trifloxystrobin will not result in harm to the adult U.S. population or infants and children.

IV. Other Considerations

A. Metabolism in Plants and Animals

1. *For plants.* The qualitative nature of the residue in plants is adequately understood for fruits, fruiting vegetables, cucurbit vegetables and peanuts, based on acceptable metabolism studies conducted on apples, cucumbers, peanuts, and a supplementary study on wheat. For the current petition, Bayer submitted two sugar beet trifloxystrobin metabolism studies. As result of these studies the nature of trifloxystrobin in/on sugar beets is adequately understood. The sugar beet metabolism studies, however, do not fulfill the wheat metabolism data requirement because the two crops are too dissimilar.

2. *For animals.* No livestock data were submitted. The qualitative nature of the residue in livestock is adequately understood based on acceptable studies conducted on goats and laying hens. The EPA has determined that the total toxic residues for livestock, both for regulatory and risk assessment purposes, is trifloxystrobin and the free form of its acid metabolite CGA–321113. Additionally, metabolite L7a (taurine conjugate of trifloxystrobin) in the liver should be included in the risk assessment.

B. Analytical Method for Plants and Livestock

EPA has completed a method validation trial of AG–659A on apples, wet apple pomace, grapes, summer squash, peanut hay, peanuts, cow liver, cow milk and raisins, and concluded that AG–659A is suitable for enforcement of trifloxystrobin and the free form of its acid metabolite in plant and livestock commodities. The enforcement method has been submitted to the Food and Drug Administration for publication in the Pesticides Assessment Manual II.

The analytical methods, AG–659A or AG–659A/REM 177.04, are adequate for collecting data for residues of trifloxystrobin and its acid metabolite CGA–321113 in/on all crops associated with this petition.

C. International Residue Limits

There are no Codex, Canadian, or Mexican maximum residue limits (MRLs) established for trifloxystrobin. Harmonization is thus not an issue at this time.

V. Conclusion

Therefore, tolerances are established for combined residues of trifloxystrobin and the free form of its acid metabolite CGA–321113 in/on fruit, stone, group at 2 ppm; nut, tree, group at 0.04 ppm; pistachio at 0.04 ppm; corn, field, grains at 0.05 ppm; corn, field, forage at 0.2 ppm; corn, field, stover at 7 ppm; corn, field, refined oil at 0.1 ppm; corn, pop, grain at 0.05 ppm; corn, pop, stover at 7 ppm; rice, grain at 3.5 ppm; rice, hulls at 8 ppm; rice, straw at 7.5 ppm; citrus, dried pulp at 0.8 ppm; citrus oil at 30 ppm; fruit, citrus, grroup at 0.3 ppm; egg at 0.04 ppm; poultry, fat at 0.04 ppm; poultry, meat at 0.04 ppm; poultry, meat by products at 0.04 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–2002–0052 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 on or before July 22, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Room M3708, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission be labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental

Protection Agency, 401 M St., SW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A. of this preamble, you should also send a copy of your request to the PIRB for its inclusion in the official record that is described in Unit I.B.2. of this preamble. Mail your copies, identified by docket number OPP–2002–0052, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PRIB described in Unit I.B.2. of this preamble. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.1 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established EPA, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance 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 rule has been exempted from review under Executive Order 12866 due to its lack of significance, 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). 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.*, or 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). 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); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). 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). 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. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*,added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, 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: May 13, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346(a), and 374.

2. Section 180.555 is amended by alphabetically adding commodities to the table in paragraph (a) to read as follows:

§ 180.555 Trifloxystrobin; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Citrus, dried pulp	0.8
Citrus, oil	30
Corn, field, forage	0.2
Corn, field, grain	0.05
Corn, field, stover	7
Corn, field, refined oil	0.1
Corn, pop, grain	0.05
Corn, pop, stover	7
* * * * *	
Egg	0.04
Fruit, citrus, group	0.3
Fruit, stone, group	2
* * * * *	
Nut, tree, group	0.04
* * * * *	
Pistachio	0.04
* * * * *	
Poultry, fat	0.04
Poultry, meat	0.04
Poultry, meat byproducts	0.04
* * * * *	
Rice, grain	3.5
Rice, hulls	8
Rice, straw	7.5
* * * * *	

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[FR Doc. 02–12850 Filed 5–21–99; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL–7214–4]

Land Disposal Restrictions: Granting of Two Site-Specific Treatment Variances to U.S. Ecology Idaho, Incorporated in Grandview, Idaho and CWM Chemical Services, LLC in Model City, New York

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is promulgating two site-specific treatment variances from the Land Disposal Restrictions (LDR) standards for wastes generated at U.S. Ecology Idaho, Incorporated (USEII) in Grandview, Idaho, and CWM Chemical Services, LLC (CWM) in Model City, New York. These waste streams are derived from the treatment of multiple listed and characteristic hazardous wastes, including K088 (spent potliners from primary aluminum reduction), and differ significantly from the waste used to establish the LDR treatment standard for arsenic in K088 non-wastewaters. Accordingly, we are finalizing an alternate treatment standard of 5.0 mg/l for arsenic, measured using the Toxicity Characteristic Leaching Procedure (TCLP), for the K088 derived emission control dust from the USEII facility. We are also, for the CWM facility, finalizing an alternate treatment standard of 5.0 mg/l for arsenic, measured using the Toxicity Characteristic Leaching Procedure, for the K088 derived baghouse dust, incinerator ash, and filtercake.

This treatment variance requires USEII and CWM to dispose of their respective waste in RCRA Subtitle C landfills provided the waste complies with the specified alternate treatment standard for arsenic in K088 non-wastewaters and meets all other applicable LDR treatment standards.

DATES: This rule is effective May 22, 2002.

ADDRESSES: The official record for this rulemaking is identified as Docket Number F–2002–TV3F–FFFFF and is located in the RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. The RIC is open from 9 am to 4 pm Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make an appointment by calling 703–603–9230. You may copy up to 100 pages from any regulatory document at no charge. Additional copies cost $0.15 per page. (The index is available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.)

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Call Center at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). The RCRA Call Center operates Monday-Friday, 9 am to 6 pm, Eastern Standard Time. For more detailed information on specific aspects of this rule, contact Laurie Solomon on 703–308–8443, *solomon.laurie@epa.gov,* or write her at the Office of Solid Waste, 5302W, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002.

SUPPLEMENTARY INFORMATION:

Availability of Rule on Internet

Please follow these instructions to access the rule: From the World Wide Web (WWW), type *http://www.epa.gov/epaoswer/hazwaste/ldr.*

The official record for this action will be kept in paper form. Accordingly, EPA has transferred any comments received electronically into paper form and placed them in the official record which also includes comments submitted directly in writing. The official record is the paper record maintained at the RIC listed in the **ADDRESSES** section at the beginning of this document.

Table of Contents

I. Why and How Are Treatment Variances Granted?

Under section 3004(m) of the Resource Conservation and Recovery