established for residues of spiromesifen and its metabolites on the requested crops.

C. Response to Comments

One comment was received from an anonymous citizen who objected to the proposed use of spiromesifen because of the amounts of pesticides already approved and being approved. The Agency understands the commenter's concerns and recognizes that some individuals believe that pesticides should be banned completely. However, under the existing legal framework provided by section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) EPA is authorized to establish pesticide tolerances or exemptions where persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute.

D. Revisions to Petitioned-For Tolerances

Vegetable, bulb, group 3-07. Due to the detection of residues on onion after performing an extensive rotational crop study, Bayer then proposed changing the tolerance from 0.07 ppm to 0.09 ppm. The Agency concurred with this proposed tolerance. Using the North American Free Trade Agreement (NAFTA) Maximum Residue Limits/ Tolerance Harmonization Workgroup methodology for evaluating field trial data, the Agency determined that the requested establishment of permanent tolerances in/on vegetable, bulb, group 3-07 proposed at 0.09 ppm should be made.

V. Conclusion

Therefore, tolerances are established for inadvertent or indirect combined residues of the insecticide spiromesifen, (2-oxo-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-4-yl 3,3-dimethylbutanoate), its enol metabolite (4-hydroxy-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-2-one), and its metabolites containing the 4-hydroxymethyl moiety (4-hydroxy-3-[4-(hydroxymethyl)-2,6-dimethylphenyl]-1-oxaspiro[4.4]non-3-en-2-one), calculated as the parent compound equivalents, in or on vegetable, bulb, group 3-07 at 0.09 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this 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 section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 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) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 25, 2010.

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 180.607 is amended by alphabetically adding the following commodity to the table in paragraph (d) to read as follows:

§ 180.607 Spiromesifen; tolerances for residues.

* * * * *

(d) * * *

Commodity	Parts per million
* * * *	*
Vegetable, bulb, group 3-07	0.09
* * * *	*

* * * * *

[FR Doc. 2010–2144 Filed 2–2–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0261; FRL–8809–3]

Chlorantraniliprole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of chlorantraniliprole in or on multiple commodities which are identified and discussed later in this document. This regulation additionally amends previously established tolerances in or on multiple commodities and deletes tolerances in or on several commodities that will be replaced by this action. E.I. du Pont de Nemours and Company, DuPont Crop Protection, requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective February 3, 2010. Objections and requests for hearings must be received on or before April 5, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0261. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kable Bo Davis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 306–0415; e-mail address: *davis.kabl@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

B. How Can I 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 cite at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 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–2009–0261 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before April 5, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2009–0261, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Register** of May 6, 2009 (Volume 74 FR 20949) (FRL–8412–7), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9F7513) by E.I. du Pont de Nemours and Company, DuPont Crop Protection,1090 Elkton Road, Newark, DE 19711. The petition requested that 40 CFR 180.628 be amended by establishing tolerances for residues of the insecticide chlorantraniliprole, 3-bromo-*N*-[4-chloro-2-methyl-6-[(methylamino)carbonyl]phenyl]-1-(3-chloro-2-pyridinyl)-1H-pyrazole-5-carboxamide, in or on acerola at 2.0 parts per million (ppm); almond, hull at 5.0 ppm; apple, wet pomace at 2.5 ppm; artichoke at 4.0 ppm; asparagus at 13.0 ppm; atemoya at 4.0 ppm; avocado at 4.0 ppm; banana at 4.0 ppm; biriba at 4.0 ppm; black sapote at 4.0 ppm; cacao bean, bean at 0.15 ppm; cacao, roasted beans at 1.4 ppm; canistel at 4.0 ppm; cattle, fat at 0.3 ppm; cattle, liver at 0.3 ppm; cattle, meat at 0.05 ppm; cattle, meat byproducts except liver at 0.2 ppm; cherimoya at 4.0 ppm; chocolate at 3.0 ppm; citrus, dried pulp at 14.0 ppm; cocoa powder at 3.0 ppm; coffee, bean, green at 0.5 ppm; coffee, instant at 2.5 ppm; corn, sweet at 0.02 ppm; corn, field, grain at 0.04 ppm; corn, pop at 0.04 ppm; corn, aspirated grain fractions at 2.0 ppm; corn, processed commodities at 0.1 ppm; crambe at 0.3 ppm; crayfish at 8.0 ppm; custard apple at 4.0 ppm; egg at 0.1 ppm; feijoa at 4.0 ppm; figs at 4.0 ppm; forage, fodder, and straw of cereal grains, group 16, forage and fodder at 25.0 ppm; forage, fodder, and straw of cereal grains, group 16, hay and straw at 90.0 ppm; fruit, caneberry, subgroup 13–07A at 1.8 ppm; fruit, citrus, group 10 at 1.4 ppm; fruit, pome, group 11 at 1.2 ppm; fruit, small vine climbing, subgroup 13–07D at 2.5 ppm; fruit, stone, group 12 at 4.0 ppm; goat,

fat at 0.3 ppm; goat, liver at 0.3 ppm; goat, meat at 0.05 ppm; goat, meat byproducts, except liver at 0.2 ppm; grass, forage, fodder and hay, group 17, forage and fodder at 25.0 ppm; grass, forage, fodder and hay, group 17, hay and straw at 90.0 ppm; guava at 4.0 ppm; hare's ear mustard at 0.3 ppm; herbs and spices, subgroup 19A, dried at 90.0 ppm; herbs and spices, subgroup 19A, fresh at 25.0 ppm; herbs and spices, subgroup 19B, spices at 7.0 ppm; hops at 90.0 ppm; horse, fat at 0.3 ppm; horse, liver at 0.3 ppm; horse, meat at 0.05 ppm; horse, meat byproducts, except liver at 0.2 ppm; ilama at 4.0 ppm; jaboticaba at 2.0 ppm; jojoba at 0.3 ppm; lesquerella at 0.3 ppm; longan at 4.0 ppm; lunaria at 0.3 ppm; lychee at 2.0 ppm; mango at 4.0 ppm; milk at 0.05 ppm; milkweed at 0.3 ppm; mint at 9.0 ppm; mustard at 0.3 ppm; non-grass animal feeds, group 18, forage and fodder at 13.0 ppm; non-grass animal feeds, group 18, hay and straw at 45.0 ppm; non-grass animal feeds, group 18, seeds at 3.5 ppm; nut, tree, group 14 at 0.04 ppm; oil radish at 0.3 ppm; okra at 0.7 ppm; olive at 4.0 ppm; olive, oil at 40.0 ppm; papaya at 2.0 ppm; passion fruit at 2.0 ppm; peanut at 0.1 ppm; peanut hay at 90.0 ppm; persimmon at 4.0 ppm; pineapple at 1.5 ppm; pineapple process residue at 3.0 ppm; pistachio at 0.04 ppm; pomegranate at 4.0 ppm; poppy seed at 0.3 ppm; poultry, fat at 0.02 ppm; poultry, meat at 0.02 ppm; poultry, meat byproducts at 0.02 ppm; prickly pear cactus at 13.0 ppm; pulasan at 4.0 ppm; raisins at 5.0 ppm; rambutan at 4.0 ppm; rapeseed at 0.3 ppm; rice, grain at 0.15 ppm; rice, hulls at 0.3 ppm; rice, straw at 0.3 ppm; rose hip at 0.3 ppm; sapodilla at 4.0 ppm; sapote, mamey at 4.0 ppm; sesame at 0.3 ppm; sheep, fat at 0.3 ppm; sheep, liver at 0.3 ppm; sheep, meat at 0.05 ppm; sheep, meat byproducts except liver at 0.2 ppm; soursop at 4.0 ppm; spanish lime at 4.0 ppm; star apple at 4.0 ppm; starfruit at 4.0 ppm; strawberries at 1.0 ppm; sugar apple at 4.0 ppm; sugarcane, cane at 14.0 ppm; sugarcane molasses at 420.0 ppm; tallowwood at 0.3 ppm; tea oil plant at 0.3 ppm; ti palm, leaves at 13.0 ppm; ti palm, roots at 0.1 ppm; vegetables, brassica leafy, group 5 at 11.0 ppm; vegetables, foliage of legume, group 7, forage/vines at 30.0 ppm; vegetables, foliage of legume, group 7, hay at 90.0 ppm; vegetables, legume, group 6, except soybeans at 2.0 ppm; vegetables, tuberous and corm, subgroup 1C at 0.01 ppm; wax jambu at 4.0 ppm; white sapote (casimiroa) and other cultivars and/or hybrids at 4.0 ppm. that notice referenced a summary of the petition prepared by E.I. du Pont de Nemours and Company, Dupont Crop Protection, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

EPA has determined that tolerances are not required for several petitioned commodities. Additionally, the Agency is revising tolerances for several proposed individual and group commodities and is amending multiple established tolerances. Finally, EPA is deleting several existing tolerances. The details on the specific changes being made and the reasons for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include 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 section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for chlorantraniliprole including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with chlorantraniliprole 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.

Chlorantraniliprole is not genotoxic, neurotoxic, immunotoxic, carcinogenic, or teratogenic. Chlorantraniliprole has been found to have low acute toxicity by the oral, dermal, and inhalation routes of exposure and has little to no irritation effect on the eyes or skin. Additionally, chlorantraniliprole is not a dermal sensitizer. There was only one toxicity study in the toxicology database that indicated that Chlorantraniliprole yielded an adverse effect (18-month oral/mouse). This study was used to establish a point of departure based on hepatocellular effects for chronic risk.

Specific information on the studies received and the nature of the adverse effects caused by chlorantraniliprole 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 the document; "*Chlorantraniliprole (DPX-E2Y45). Human Health Risk Assessment for Section 3 Registration Request to Expand Uses of Coragen, Altacor, and Dermacor X-100 Labels on Various Field, Vegetable, and Fruit Crops*," page 31 in docket ID number EPA–HQ–OPP–2009–0261.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a benchmark dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-term, intermediate-, and chronic-term risks are evaluated by

comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the level of concern (LOC).

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 greater than that 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 chlorantraniliprole used for human risk assessment can be found at *http://www.regulations.gov* in the document; "*Chlorantraniliprole (DPX-E2Y45). Human Health Risk Assessment for Section 3 Registration Request to Expand Uses of Coragen, Altacor, and Dermacor X-100 Labels on Various Field, Vegetable, and Fruit Crops*," in docket ID number EPA–HQ–OPP–2009–0261.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to chlorantraniliprole, EPA considered exposure under the petitioned-for tolerances as well as all existing chlorantraniliprole tolerances in 40 CFR 180.628. EPA assessed dietary exposures from chlorantraniliprole 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.

No such effects were identified in the toxicological studies for chlorantraniliprole; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 Continuing Survey of Food Intake by Individual (CSFII). As to residue levels in food, EPA assumed all foods for which there are tolerances were treated and contain tolerance-level residues.

iii. *Cancer*. Chlorantraniliprole was classified as "Not likely to be Carcinogenic to Humans" based on evidence showing no treatment-related tumors in the submitted chronic and oncogenicity studies in rats and mice, and subchronic studies in mice, dogs, and rats, and no mutagenic concerns in the genotoxicity studies. Therefore, an exposure assessment to evaluate cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information*. EPA did not use anticipated residue or PCT information in the dietary assessment for chlorantraniliprole. Tolerance level residues and 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 chlorantraniliprole in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of chlorantraniliprole. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of chlorantraniliprole for chronic exposures for non-cancer assessments are estimated to be 3.65 ppb for surface water and 1.06 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration of value 3.65 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).

Chlorantraniliprole is currently registered for the following uses that could result in residential exposures: Turfgrass and ornamental plants. Residential exposure could occur for short-term and intermediate-term exposures however, due to the lack of toxicity identified for short- and intermediate-term durations via relevant routes of exposure, no risk is expected from these exposures. Additional information on residential exposure assumptions can be found at *www.regulations.gov* (Docket ID EPA–HQ–OPP–2009–0261, pages 24 through 25).

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 chlorantraniliprole to share a common mechanism of toxicity with any other substances, and chlorantraniliprole does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that chlorantraniliprole 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 website 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*. There were no effects on fetal growth or postnatal development up to the limit dose of 1,000 milligrams/kilogram/day (mg/kg/day) in rats or rabbits in the developmental or 2-generation reproduction studies. Additionally, there were no treatment related effects on the numbers of litters, fetuses (live or dead), resorptions, sex ratio, or post-implantation loss and no effects on fetal body weights, skeletal ossification, and external, visceral, or skeletal malformations or variations.

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

i. The toxicity database for chlorantraniliprole is complete and considered adequate for this risk assessment (including 40 CFR 158.500 requirements for dermal toxicity,

immunotoxicity, and acute/subchronic neurotoxicity effective December 26, 2007).

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

iii. There is no evidence that chlorantraniliprole 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 chronic dietary food exposure assessment utilized tolerance-level residues and 100 PCT data. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to chlorantraniliprole in drinking water. Due to the lack of toxicity identified for short-term and intermediate-term durations via relevant routes of exposure, no risk is expected from postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by chlorantraniliprole.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-term, intermediate-term, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. An acute aggregate risk assessment takes into account exposure estimates from acute dietary consumption of food and drinking water. No adverse effect resulting from a single-oral exposure was identified and no acute dietary endpoint was selected. Therefore, chlorantraniliprole is not expected to pose an acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to chlorantraniliprole from food and water will utilize 5% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of chlorantraniliprole 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).

Although short-term residential exposure could occur with the use of chlorantraniliprole, no toxicological effects resulting from short-term dosing were observed. Therefore, the aggregate risk is the sum of the risk from food and water and will not be greater than the chronic aggregate risk.

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).

Although intermediate-term residential exposure could result from the use of chlorantraniliprole, no toxicological effects resulting from intermediate-term dosing were observed. Therefore, the aggregate risk is the sum of the risk from food and water and will not be greater than the chronic aggregate risk.

5. *Aggregate cancer risk for U.S. population*. Based on evidence showing no treatment-related tumors in the submitted chronic and oncogenicity studies in rats and mice, and subchronic studies in mice, dogs, and rats, and no mutagenic concerns in the genotoxicity studies, chlorantraniliprole 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 chlorantraniliprole residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology, Liquid Chromatography Mass Spectrometry (LC/MS/MS), is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

Regarding international Maximum Residue Levels (MRLs) for chlorantraniliprole, all tolerances are harmonized (tolerances and MRLs have equivalent residue levels and tolerance expressions) or U.S. tolerances are higher than Codex based on submitted data and differences in U.S. use patterns. U.S. tolerances exceed Codex MRLs for the following commodities: Grapes, edible offal (mammalian), milks, meat (from mammals), pome fruits, stone fruits and eggs. All other MRLs are harmonized with Codex.

C. Response to Comments

There were no comments received in response to the notice of filing.

D. Revisions to Petitioned-For Tolerances

EPA has revised the proposed tolerance levels of chlorantraniliprole on the following commodities: cacao bean from 0.15 ppm to 0.08 ppm; cacao bean, roasted bean from 1.4 ppm to 0.8 ppm; cacao bean, chocolate from 3.0 ppm to 1.5 ppm; cacao bean, cocoa powder from 3.0 ppm to 1.5 ppm; coffee, green bean from 0.5 ppm to 0.4 ppm; coffee, instant from 2.5 ppm to 2.0 ppm; egg from 0.1 ppm to 0.2 ppm; herbs and spices, subgroup 19B, spices from 7.0 ppm to 14 ppm; animal feed, nongrass, group 18, forage from 13.0 ppm to 25 ppm; animal feed, nongrass, group 18, hay from 45 ppm to 90 ppm; alfalfa, seed from 3.5 ppm to 7.0 ppm; poultry, fat from 0.02 ppm to 0.01 ppm; rice, hulls from 0.3 ppm to 0.4 ppm. EPA revised the tolerance levels based on analysis of the residue field trial data using the Agency's tolerance spreadsheet in accordance with the *Agency's Guidance for Setting Pesticide Tolerances Based on Field Trial Data*.

The commodity, fruit, pome, group 11 is being revised to read fruit, pome, group 11, except mayhaw. A separate tolerance of 0.6 ppm is being established for mayhaw. The commodity, fruit, stone, group 12 is being revised to read fruit, stone, group 12, except cherry, chickasaw plum, and damson plum. Separate tolerances of 2.0 ppm are being established for cherry, sweet; cherry, tart; plum, chickasaw; plum, damson. for these two groups the EPA has determined that for those commodities in these groups considered small fruit it is not approriatate to establish the higher tolerance because they have differing use directions with a longer phi that will result in lower residue levels.

The petitioner requested tolerances on forage, fodder, and straw of cereal

grains, group 16, forage and fodder at 25.0 ppm; and forage, fodder, and straw of cereal grains, group 16, hay and straw at 90.0 ppm. However, no tolerances were proposed for cereal grains, crop group 15. Without a tolerance for cereal grains, crop group 15, tolerances for cereal grains, crop group 16, forage, fodder and straw are not appropriate. However, based on submitted data and translation, the tolerance of 14 ppm can be established for the following individual crop group 16 commodities: corn, field, forage; corn, field, stover; corn, pop, forage; corn, pop, stover; corn, sweet, forage, and corn, sweet, stover.

Based upon the re-examination of the available ruminant feeding study, EPA is establishing tolerance levels of chlorantraniliprole on the following commodities: Hog, fat at 0.02 ppm and hog, meat byproducts at 0.02 ppm.

The current established tolerance of 0.01 ppm for residues of chlorantraniliprole on potatoes is revoked upon the establishment of tolerances on vegetables, tuberous and corm, subgroup 1C at 0.01 ppm. The petitioner requested tolerances be established for fruit, small vine climbing, subgroup 13–07D at 2.5 ppm.

The representative commodities for this subgroup are grape and fuzzy kiwifruit. Data are only available for grape. Therefore, the EPA is establishing a tolerance for fruit, small vine climbing, subgroup 13–07F at 2.5 ppm which is a subset of subgroup 13–07D. The current established tolerance of 1.2 ppm for residues of chlorantraniliprole on grapes is revoked upon the establishment of tolerances on fruit, small vine climbing, subgroup 13–07F at 2.5 ppm.

Finally, EPA has revised the tolerance expression to clarify (1) that, as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of chlorantraniliprole not specifically mentioned; and (2) that compliance with the specified tolerance levels is to be determined by measuring only the specific compounds mentioned in the tolerance expression.

V. Conclusion

Therefore, tolerances are established for residues of chlorantraniliprole, 3-bromo-*N*-[4-chloro-2-methyl-6-[(methylamino)carbonyl]phenyl]-1-(3-chloro-2-pyridinyl)-1H-pyrazole-5-carboxamide, in or on acerola at 2.0 ppm; animal feed, nongrass, group 18, forage at 25 ppm; animal feed, nongrass, group 18, hay at 90 ppm; alfalfa, seed at 7.0 ppm; artichoke, globe at 4.0 ppm; asparagus at 13 ppm; atemoya at 4.0 ppm; avocado at 4.0 ppm; banana at 4.0 ppm; biriba at 4.0 ppm; cacao bean at 0.08 ppm; cacao bean, chocolate at 1.5 ppm; cacao bean, cocoa powder at 1.5 ppm; cacao bean, roasted bean at 0.8 ppm; cactus at 13 ppm; canistel at 4.0 ppm; cattle, liver at 0.3 ppm; cherimoya at 4.0 ppm; citrus, dried pulp at 14 ppm; coffee, green bean at 0.4 ppm; coffee, instant at 2.0 ppm; corn, sweet, kernel plus cobs with hush removed at 0.02 ppm; corn, field, grain at 0.04 ppm; corn, field, milled byproducts at 0.1 ppm; corn, pop, grain at 0.04 ppm; crambe, seed at 0.3 ppm; crayfish at 8.0 ppm; custard apple at 4.0 ppm ; egg at 0.2 ppm; feijoa at 4.0 ppm; fig at 4.0 ppm; fruit, caneberry, subgroup 13-07A at 1.8 ppm; fruit, citrus, group 10 at 1.4 ppm; fruit, small vine climbing, subgroup 13-07F at 2.5 ppm; goat, liver at 0.3 ppm; grass forage, fodder and hay, group 17 at 90 ppm; grain, aspirated fractions at 2.0 ppm; guava at 4.0 ppm; hare's ear mustard, seed at 0.3 ppm; herb subgroup 19A, dried leaves at 90 ppm; herb subgroup 19A, fresh leaves at 25 ppm; hop, dried cones at 90 ppm; horse, liver at 0.3 ppm; ilama at 4.0 ppm; jaboticaba at 2.0 ppm; jojoba, seed at 0.3 ppm; lesquerella, seed at 0.3 ppm; longan at 4.0 ppm; lunaria, seed at 0.3 ppm; lychee at 2.0 ppm; mango at 4.0 ppm; milkweed, seed at 0.3 ppm; mustard seed at 0.3 ppm; oil, radish, seed at 0.3 ppm; okra at 0.7 ppm; olive at 4.0 ppm; olive, oil at 40.0 ppm; papaya at 2.0 ppm; passionfruit at 2.0 ppm; peppermint, tops at 9.0 ppm; persimmon at 4.0 ppm; pineapple at 1.5 ppm; pineapple, process residue at 3.0 ppm; pomegranate at 4.0 ppm; poppy, seed at 0.3 ppm; poultry, fat at 0.01 ppm; poultry, meat byproducts at 0.02 ppm; pulasan at 4.0 ppm; rambutan at 4.0 ppm; rapeseed, seed at 0.3 ppm; rice, grain at 0.15 ppm; rice, hulls at 0.4 ppm; rose hip, seed at 0.3 ppm; sapodilla at 4.0 ppm; sapote, black at 4.0 ppm; sapote, mamey at 4.0 ppm; sapote, white at 4.0 ppm; sesame, seed at 0.3 ppm; sheep, liver at 0.3 ppm; soursop at 4.0 ppm; spanish lime at 4.0 ppm; spearmint, tops at 9.0 ppm; spice, subgroup 19B at 14 ppm; star apple at 4.0 ppm; starfruit at 4.0 ppm; strawberries at 1.0 ppm; sugar apple at 4.0 ppm; sugarcane, cane at 14 ppm; sugarcane, molasses at 420 ppm; tallowwood, seed at 0.3 ppm; tea oil plant, seed at 0.3 ppm; vegetables, foliage of legume, except soybean, subgroup 7A, forage at 30 ppm; vegetables, foliage of legume, except soybean, subgroup 7A, hay at 90 ppm; vegetables, legume, group 6, except soybeans at 2.0 ppm; vegetables, tuberous and corm, subgroup 1C at 0.01 ppm; wax jambu at 4.0 ppm.

Additionally, tolerances are amended for residues of chlorantraniliprole in or on apple, wet pomace from 0.60 ppm to 2.5 ppm; cattle, fat from 0.01 ppm to 0.3 ppm; cattle, meat from 0.01 ppm to 0.05 ppm; cattle, meat byproducts from 0.01 ppm to 0.2 ppm; fruit, pome, group 11, except mayhaw from 0.30 ppm to 1.2 ppm; fruit, stone, group 12, except cherry, chickasaw plum, and damson plum from 0.30 ppm to 4.0 ppm; goat, fat from 0.01 ppm to 0.3 ppm; goat, meat from 0.01 ppm to 0.05 ppm; goat, meat byproduct from 0.01 ppm to 0.2 ppm; grape, raisin from 2.5 ppm to 5.0 ppm; horse, fat from 0.01 ppm to 0.3 ppm; horse, meat from 0.01 ppm to 0.05 ppm; horse, meat byproduct from 0.01 ppm to 0.2 ppm; milk from 0.01 ppm to 0.05 ppm; sheep, fat from 0.01 ppm to 0.3 ppm; sheep, meat from 0.01 ppm to 0.05 ppm; sheep, meat byproduct from 0.01 ppm to 0.2 ppm.

Although requests were made to amend residues of chlorantraniliprole in or on Crop Groups 11 and 12, the following individual commodities required separate tolerances. Tolerances are established for residues of chlorantraniliprole in or on cherry, sweet at 2.0 ppm; cherry, tart at 2.0 ppm; mayhaw at 0.6 ppm; plum, chickasaw at 2.0 ppm and plum, damson at 2.0 ppm.

In addition, requests were made to establish tolerances of chlorantraniliprole in or on Crop Group 15, however adequate data were only submitted to support the establishment of tolerances for specific commodities. tolerances are established for residues of chlorantraniliprole in or on corn, field, forage at 14.0 ppm; corn, field, stover at 14.0 ppm; corn, pop, forage at 14.0 ppm; corn, pop, stover at 14.0 ppm; corn, sweet, forage at 14.0 ppm and corn, sweet, stover at 14.0 ppm.

This regulation deletes a tolerance in or on grape at 1.2 ppm and potato at 0.01 ppm. Additionally, the following time-limited section 18 emergency exemption tolerances are deleted: corn, sweet, cannery waste at 6.0 ppm; corn, sweet, forage at 6.0 ppm; corn, sweet, kernel plus cob with husks removed at 0.01 ppm; corn, sweet, stover at 6.0 ppm; milk at 0.03 ppm; rice, grain at 0.10 ppm and rice, straw at 0.25 ppm. Finally, this regulation deletes time-limited tolerances for indirect/inadvertent residues of chlorantraniliprole in or on animal feed, nongrass, group 18 at 0.20 ppm; cowpea, forage at 0.20 ppm; cowpea, hay at 0.20 ppm; field pea, hay at 0.20 ppm; field pea, vine at 0.20 ppm; grass, forage, fodder and hay, group 17 at 0.20 ppm; okra at 0.70 ppm; strawberry at 1.20 ppm and sugarcane at 0.20 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this 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 section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 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) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 26, 2010.

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 180.628 is revised to read as follows:

§ 180.628 Chlorantraniliprole; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide chlorantraniliprole, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only chlorantraniliprole, 3-bromo-*N*-[4-chloro-2-methyl-6-[(methylamino)carbonyl]phenyl]-1-(3-chloro-2-pyridinyl)-1H-pyrazole-5-carboxamide.

Commodity	Parts per million
Acerola	2.0
Alfalfa, seed	7.0
Almond, hulls	5.0
Animal feed, nongrass, group 18, forage	25
Animal feed, nongrass, group 18, hay	90
Apple, wet pomace	2.5
Artichoke, globe	4.0
Asparagus	13
Atemoya	4.0
Avocado	4.0
Banana	4.0
Biriba	4.0
Brassica, head and stem, subgroup 5A	4.0
Brassica, leafy greens, subgroup 5B	11
Cacao bean	0.08
Cacao bean, chocolate	1.5
Cacao bean, cocoa powder	1.5
Cacao bean, roasted bean	0.8
Cactus	13
Canistel	4.0
Cattle, fat	0.3
Cattle, liver	0.3
Cattle, meat	0.05

Commodity	Parts per million
Cattle, meat byproducts, except liver	0.2
Cherimoya	4.0
Cherry, sweet	2.0
Cherry, tart	2.0
Citrus, dried pulp	14
Coffee, green bean	0.4
Coffee, instant	2.0
Corn, field, forage	14
Corn, field, grain	0.04
Corn, field, milled byproducts	0.1
Corn, field, stover	14
Corn, pop, forage	14
Corn, pop, grain	0.04
Corn, pop, stover	14
Corn, sweet, forage	14
Corn, sweet, kernel plus cobs with husk removed	0.02
Corn, sweet, stover	14
Cotton, gin byproduct	30
Cotton, hulls	0.40
Cotton, undelinted seed	0.30
Crambe, seed	0.3
Crayfish	8.0
Custard apple	4.0
Egg	0.2
Feijoa	4.0
Fig	4.0
Fruit, caneberry, subgroup 13–07A	1.8
Fruit, citrus, group 10	1.4
Fruit, pome, group 11, except mayhaw	1.2
Fruit, small vine climbing, subgroup 13–07F	2.5
Fruit, stone, group 12, except cherry, chickasaw plum, and damson plum	4.0
Goat, fat	0.3
Goat, liver	0.3
Goat, meat	0.05
Goat, meat byproducts, except liver	0.2
Grain, aspirated fractions	2.0
Grape, raisin	5.0
Grass forage, fodder and hay, group 17	90
Guava	4.0
Hare's ear mustard, seed	0.3
Herb subgroup 19A, dried leaves	90
Herb subgroup 19A, fresh leaves	25
Hog, fat	0.02
Hog, meat byproducts	0.02
Hop, dried cones	90
Horse, fat	0.3
Horse, liver	0.3
Horse, meat	0.05
Horse, meat byproducts, except liver	0.2
Ilama	4.0
Jaboticaba	2.0
Jojoba, seed	0.3
Lesquerella, seed	0.3
Longan	4.0
Lunaria, seed	0.3
Lychee	2.0
Mango	4.0
Mayhaw	0.6
Milk	0.05
Milkweed, seed	0.3
Mustard, seed	0.3
Nut, tree, group 14	0.04
Oil, radish, seed	0.3
Okra	0.7
Olive	4.0
Olive, oil	40
Papaya	2.0
Passionfruit	2.0
Peppermint, tops	9.0
Persimmon	4.0
Pineapple	1.5
Pineapple, process residue	3.0
Pistachio	0.04
Plum, chickasaw	2.0

Commodity	Parts per million
Plum, damson	2.0
Pomegranate	4.0
Poppy, seed	0.3
Poultry, fat	0.01
Poultry, meat byproducts	0.02
Pulasan	4.0
Rambutan	4.0
Rapeseed, seed	0.3
Rice, grain	0.15
Rice, hulls	0.4
Rose hip, seed	0.3
Sapodilla	4.0
Sapote, black	4.0
Sapote, mamey	4.0
Sapote, white	4.0
Sesame, seed	0.3
Sheep, fat	0.3
Sheep, liver	0.3
Sheep, meat	0.05
Sheep, meat byproducts, except liver	0.2
Soursop	4.0
Spanish lime	4.0
Spearmint, tops	9.0
Spice, subgroup 19B	14
Star apple	4.0
Starfruit	4.0
Strawberry	1.0
Sugar apple	4.0
Sugarcane, cane	14
Sugarcane, molasses	420
Tallowwood, seed	0.3
Tea oil plant, seed	0.3
Vegetable, cucurbit, group 9	0.25
Vegetable, foliage of legume, except soybean, subgroup 7A, forage	30
Vegetable, foliage of legume, except soybean, subgroup 7A, hay	90
Vegetable, fruiting, group 8	0.70
Vegetable, leafy, except brassica, group 4	13
Vegetable, legume, group 6, except soybeans	2.0
Vegetable, tuberous and corm, subgroup 1C	0.01
Wax jambu	4.0

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

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

(d) *Indirect or inadvertent residues.* Time-limited tolerances are established for the indirect or inadvertent residues of the insecticide chlorantraniliprole, including its metabolites and degradates, in or on the commodities in the table below when present therein as a result of the application of chlorantraniliprole to the growing crops listed in paragraph (a) of this section. Compliance with the tolerance levels specified below is to be determined by measuring only chlorantraniliprole, 3-bromo-*N*-[4-chloro-2-methyl-6-[(methylamino)carbonyl]phenyl]-1-(3-chloro-2-pyridinyl)-1H-pyrazole-5-carboxamide.

Commodity	Parts per million	Expiration/revocation date
Grain, cereal, forage, fodder and straw, group 16	0.20	04/10/10
Leek	0.20	04/10/10
Onion, green	0.20	04/10/10
Onion, welsh	0.20	04/10/10
Peanut, hay	0.20	04/10/10
Shallot	0.20	04/10/10
Soybean, forage	0.20	04/10/10
Soybean, hay	0.20	04/10/10
Vegetable, leaves of root and tuber, group 2	0.20	04/10/10

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 26

[Docket No. OST–2010–0021]

RIN 2105–AD76

Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Final rule.

SUMMARY: This final rule changes the Department of Transportation (Department) regulation concerning how often recipients of DOT financial assistance are required to submit to the appropriate DOT operating administration for approval the methodology and process used to establish their overall disadvantaged business enterprise (DBE) goal for federally funded contracting opportunities. Under the rule, recipients will submit overall goals for review every three years, rather than annually.

DATES: *Effective Date:* This rule is effective March 5, 2010.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W94–302, Washington, DC 20590, 202 366–9310, *Bob.Ashby@dot.gov.*

SUPPLEMENTARY INFORMATION: On April 8, 2009, the Department published in the **Federal Register** at 74 FR 15910, a notice of proposed rulemaking (NPRM) inviting public comment on a proposal to establish a staggered three-year schedule for the submission by DOT recipients subject to the regulations at 49 CFR part 26 of their overall goal for DBE participation on DOT-assisted contracts. Recipients are currently required to make a DBE goal submission each year on August 1st. This proposed rule change was modeled largely on the comparable provision in the airport concessions DBE rule in Part 23 of this Title, with which the Department has had successful experience.

The Department received approximately 27 comments from state departments of transportation, airports, transit authorities, DBEs, contractor associations, and transportation consultants. This final rule responds to the substantive concerns raised in the comments from those who supported or opposed the adoption of the proposed rule.

The majority of commenters supported the proposed rule change as long as recipients are either required to conduct annual reviews to account for changes that may warrant a modification of the overall goal or are simply allowed to make adjustments to the overall goal during the three-year period based on changed circumstances without necessarily requiring annual reviews. Some of the circumstances or conditions that may indicate the need for an adjustment include, but are not limited to, the collection of new data, a significant change in the recipient's DOT assisted contracting program (e.g., new contracting opportunities presented by the availability of new or different grant opportunities), a marked increase or decrease in the availability of DBEs in the recipient's contracting market, or a significant change in the legal standards governing the DBE program. Some supporters also thought it advisable to give recipients the flexibility to request a waiver to set their own schedule or to submit an overall goal that covers a one-, two-, or three-year period as appropriate due to the nature of the recipient's contracting program. The ability to maintain the status quo—i.e., set annual overall goals—was an approach strongly endorsed by some airports, some representatives of the aviation industry, and some representatives of general contractors.

The commenters opposed to the proposed rule change raised several concerns about moving to a three-year cycle: (1) The difficulty in estimating a DBE goal beyond one year given the changes in the political landscape or changes in the kind of projects that are funded; (2) locking in goals for three years undermines the ability to assess market conditions and DBE availability; (3) requiring annual reviews during the three-year period defeats the purpose of reducing the administrative burden associated with the annual goal setting process since an annual review will likely result in the need for an adjustment and thereby trigger the annual goal setting process; and (4) it fails to achieve a level playing field or ensure narrow tailoring.

Having considered the comments, the Department believes going to a system of staggered three-year overall DBE goal submissions would not compromise the ability of recipients to implement a narrowly tailored program and would enable recipients to improve the data collection, analysis, and consultation required to establish an overall goal that truly aims to reflect the level of DBE participation one would expect absent the effects of discrimination. Since the DBE program rules were substantially revised in 1999, generally we have not seen huge variances in the annual DBE goal submissions made by recipients over the last ten years. Thus, we do not assume that requiring an annual review would necessarily lead to annual adjustments resulting from a process that mimics the current yearly process. That said, we do not think it necessary to mandate annual reviews. Instead, we believe recipients or operating administrations should be allowed, based on changed circumstances, to initiate mid-course reviews as needed to determine if adjustments to the overall goal are warranted. Also, we do not think it prudent to allow each recipient to establish a different schedule for submission. Such a series of exceptions would likely swallow the rule. It also would make it much more difficult for operating administrations to manage reviews and oversee compliance. However, in those cases where a recipient believes its situation differs from other similarly situated recipients, the existing program waiver process offers the recipient the opportunity to seek an exception. These program waivers, unlike the general program waiver provisions of 49 CFR 26.15, could be granted by an operating administration and would not have to be approved by the Secretary.

Under the final rule, each operating administration is required to establish a schedule for submissions to be posted on its Web site. The schedules are intended to be posted no later than 30 days after the effective date of this rule. During the transition to this new system, specific notice of the deadline for overall goal submissions and the consequences of failing to meet the deadline should be provided to recipients. The schedules established by the operating administrations should include each year a proportionate or representative number of recipients from all regions of the country (e.g., north, south, east, and west). During the transition to the new scheduling system, recipients should continuing using or operating under the goals last approved by the operating administration.

Regulatory Analyses and Notices

Executive Order 12866 and Regulatory Flexibility Act

The Department has determined that this action is not a significant regulatory