



BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2014-0482; FRL-9922-06]

Flutriafol; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes, amends, and removes tolerances for residues of flutriafol in or on multiple commodities which are identified and discussed later in this document. Cheminova A/S c/o Cheminova, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective [*insert date of publication in the Federal Register*].

Objections and requests for hearings must be received on or before [*insert date 60 days after date of publication in the Federal Register*], and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the

SUPPLEMENTARY INFORMATION).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2014-0482, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please

review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: RDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

B. How Can I Get Electronic Access to Other Related Information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.

C. How Can I File an Objection or Hearing Request?

Under FFDCFA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2014-0482 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before [*insert date 60 days after date of publication in the **Federal Register***]. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2014-0482, by one of the following methods:

- *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail*: OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Hand Delivery*: To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of December 17, 2014 (79 FR 75107) (FRL-9918-90), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 3F8199) by Cheminova A/S, c/o Cheminova Inc., 1600 Wilson Blvd., Suite 700, Arlington, VA 22209-2510.. The petition requested that 40 CFR 180.629 be amended by establishing tolerances for residues of the fungicide flutriafol, in or on *Brassica*, head and stem, subgroup 5A at 1.5 parts per million (ppm); *Brassica*, head and stem, subgroup 5A, at 1.5 ppm; *Brassica*, leafy greens, subgroup 5B at 7.0 ppm; egg at 0.01 ppm; hog, liver at 0.05 ppm; hog, meat by products, except liver at 0.02 ppm; hog, muscle at 0.01 ppm; leaf petioles, subgroup 4B at 3.0 ppm; leafy greens, subgroup 4A except head lettuce at 10 ppm; lettuce, head at 1.5 ppm; poultry, meat byproducts at 0.02 ppm; radicchio at 1.5 ppm; sorghum, grain, forage at 2.0 ppm; sorghum, grain, grain at 1.5 ppm and sorghum, grain, stover at 6.0 ppm. The petition requested that 40 CFR 180.629 amend the current established tolerances for residues of the fungicide flutriafol in or on cotton, gin byproducts from 0.5 ppm to 5.0 ppm; cotton, undelinted seed from 0.35 ppm to 0.5 ppm; grain, aspirated fractions from 2.2 ppm to 6.0 ppm. The petition also requested that 40 CFR 180.629 delete the current established tolerances for residues of the fungicide flutriafol in or on cotton, meal at 0.5

ppm; cotton, refined oil at 0.5 ppm; and hog, meat byproducts at 0.02 ppm. That document referenced a summary of the petition prepared by Cheminova A/S, c/o Cheminova, Inc., the registrant, which is available in the docket, <http://www.regulations.gov>. One comment was received on the notice of filing. EPA's response to this comment is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA is issuing some tolerances that vary from what the petitioner requested. The reason 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 FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the

hazards of and to make a determination on aggregate exposure for flutriafol including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with flutriafol 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.

Flutriafol is categorized as having high oral acute toxicity in the mouse. It is categorized as having low acute toxicity via the oral, dermal and inhalation routes in rats. Flutriafol is minimally irritating to the eyes and is not a dermal irritant. Flutriafol was not shown to be a skin sensitizer when tested in guinea pigs.

Short-term, subchronic, and chronic toxicity studies in rats, mice, and dogs identified the liver as the primary target organ of flutriafol. Hepatotoxicity was first evident in the subchronic studies (rats and dogs) in the form of increases in liver enzyme release (alkaline phosphatase), and liver weights, and histopathology findings ranging from hepatocyte vacuolization to centrilobular hypertrophy and slight increases in hemosiderin-laden Kupffer cells. It is noteworthy that with chronic exposures, there are no indications of progression of liver toxicity in all species. After over one year of exposure, hepatotoxicity in rats, dogs, and mice took the form of minimal to severe fatty changes; bile duct proliferation/cholangiolar fibrosis; hemosiderin accumulation in Kupffer cells; centrilobular hypertrophy, and increases in alkaline phosphatase release.

Slight indications of effects in the hematopoietic system are sporadically seen in the database. These effects are manifested in the form of slight anemia (rats and dogs) and increased platelet, white blood cell, neutrophil, and lymphocyte counts (mice). These effects, however, were minimal in severity.

Specific information on the studies received and the nature of the adverse effects caused by flutriafol as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in the final rule published in the **Federal Register** of June 6, 2014 (79 FR 32666) (FRL-9910-38) under the docket ID numbers EPA-HQ-OPP-2013-0654-0005 and EPA-HQ-OPP-2013-0655-0008.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level - generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD) - and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of

the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see

<http://www.epa.gov/pesticides/factsheets/riskassess.htm>.

A summary of the toxicological endpoints for flutriafol used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of June 6, 2014.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to flutriafol, EPA considered exposure under the petitioned-for tolerances as well as all existing flutriafol tolerances in 40 CFR 180.629. EPA assessed dietary exposures from flutriafol in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for flutriafol. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) Nationwide Health and Nutrition Examination Survey, What We Eat In America (NHANES/WWEIA) conducted from 2003-2008. As to residue levels in food, EPA made the following assumptions for the acute exposure assessment: tolerance-level residues or tolerance-level residues adjusted to account for the residues of concern for risk assessment and 100 percent crop treated (PCT). Since adequate processing studies have been submitted which indicate that tolerances for residues in/on apple juice, grape juice,

dried prunes, and tomato puree are unnecessary and since tolerances for residues in/on raisins and tomato paste are established, the Dietary Exposure Evaluation Model (DEEM) (ver. 7.81) default processing factors for these commodities were reduced to 1. The DEEM (ver. 7.81) default processing factors were retained for the remaining relevant commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA's (NHANES/WWEIA) conducted from 2003-2008 as well. As to residue levels in food, EPA made the follow assumptions for the chronic exposure assessment: Tolerance-level residues or tolerance-level residues adjusted to account for the residues of concern for risk assessment and 100 PCT. Since adequate processing studies have been submitted which indicate that tolerances for residues in/on apple juice, grape juice, dried prunes, and tomato puree are unnecessary and since tolerances for residues in/on raisins and tomato paste are established, the DEEM (ver. 7.81) default processing factors for these commodities were reduced to 1. The DEEM (ver. 7.81) default processing factors were retained for the remaining relevant commodities.

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

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for flutriafol. Tolerance level residues or tolerance level residues adjusted to account for the residues of concern for risk assessment 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 flutriafol. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of flutriafol. 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 Food Quality Protection Act (FQPA): First Index Reservoir Screening Tool (FIRST) and the Pesticide Root Zone Model /Ground Water (PRZM/GW), the estimated drinking water concentrations (EDWCs) of flutriafol for acute exposures are estimated to be 40.55 parts per billion (ppb) for surface water and 310 ppb for ground water.

For chronic exposures assessments the EDWC's are estimated to be 4.03 ppb for surface water and 202 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 310 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 202 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). Flutriafol is not registered for any specific use patterns that would result in residential exposure.

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.”

Flutriafol is a member of the triazole-containing class of pesticides. Although conazoles act similarly in plants (fungi) by inhibiting ergosterol biosynthesis, there is not necessarily a relationship between their pesticidal activity and their mechanism of toxicity in mammals. Structural similarities do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same, or essentially the same, sequence of major biochemical events. In conazoles, however, a variable pattern of toxicological responses is found; some are hepatotoxic and hepatocarcinogenic in mice. Some induce thyroid tumors in rats. Some induce developmental, reproductive, and neurological effects in rodents. Furthermore, the conazoles produce a diverse range of biochemical events including altered cholesterol levels, stress responses, and altered DNA methylation. It is not clearly understood whether these biochemical events are directly connected to their toxicological outcomes. Thus, there is currently no evidence to indicate that conazoles share common mechanisms of toxicity and EPA is not following a cumulative risk approach based on a common mechanism of toxicity for the conazoles. For information regarding EPA's procedures for cumulating effects from substances found to have a common mechanism of toxicity, see EPA's website at <http://www.epa.gov/pesticides/cumulative>.

Triazole-derived pesticides can form the metabolite 1,2,4-triazole

(T) and two triazole conjugates triazolylalanine (TA) and triazolylacetic acid (TAA). To support existing tolerances and to establish new tolerances for triazole-derivative pesticides, EPA conducted an initial human-health risk assessment for exposure to T, TA, and TAA resulting from the use of all current and pending uses of any triazole-derived fungicide as of September 1, 2005. The risk assessment was a highly conservative, screening-level evaluation in terms of hazards associated with common metabolites (e.g., use of a maximum combination of uncertainty factors) and potential dietary and non-dietary exposures (i.e., high-end estimates of both dietary and non-dietary exposures). In addition, the Agency retained the additional 10X Food Quality Protection Act (FQPA) safety factor (SF) for the protection of infants and children. The assessment included evaluations of risks for various subgroups, including those comprised of infants and children. The Agency's complete risk assessment can be found in the propiconazole reregistration docket at <http://www.regulations.gov>, docket ID number EPA-HQ-OPP-2005-0497 and an update to the aggregate human health risk assessment for free triazoles and its conjugates may be found in this current docket, docket ID number EPA-HQ-OPP-2013-0653-0006 entitled "Common Triazole Metabolites: Updated Aggregate Human Health Risk Assessment to Address The New Section 3 Registrations For Use of Propiconazole on Rapeseed Crop Subgroup 20 A; Use of Difenconazole on Rapeseed Crop Subgroup 20 A; and Use of Tebuconazole on Imported Oranges."

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold

effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* The potential impact of *in utero* and perinatal flutriafol exposure was investigated in three developmental toxicity studies (two in rats, one in rabbits) and 2 multi-generation reproduction toxicity studies in rats. In the first of two rat developmental toxicity studies, increased quantitative susceptibility was observed with developmental effects (delayed ossification or non-ossification of the skeleton in the fetuses) seen at a lower dose than maternal effects. In the second rat developmental study, a qualitative susceptibility was noted. Although developmental toxicity occurred at the same dose level that elicited maternal toxicity, the developmental effects (external, visceral, and skeletal malformations; embryo lethality; skeletal variations; a generalized delay in fetal development; and fewer live fetuses) were more severe than the decreased food consumption and body-weight gains observed in the dams. For rabbits, there was an increased qualitative fetal susceptibility. Intrauterine deaths occurred at a dose level that also caused adverse effects in maternal animals. In the 2-generation reproduction studies, a qualitative susceptibility was also seen. Effects in the offspring decreased litter size and percentage of live births (increased pup mortality) and liver toxicity can be attributed to the systemic toxicity of the parental animals (decreased body weight and food consumption and liver toxicity).

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

- i. The toxicity database for flutriafol is complete.
- ii. There is no indication that flutriafol is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity. Signs of neurotoxicity were reported in the acute and subchronic neurotoxicity studies at the highest dose only; however, these effects were primarily seen in animals that were agonal (at the point of death) and, thus, are not indicative of neurotoxicity. In addition, there was no evidence of neurotoxicity in any additional short-term or long-term toxicity studies in rats, mice, and dogs.
- iii. There are no concerns or residential uncertainties for prenatal and/or postnatal toxicity. Although there is evidence for increased quantitative and qualitative susceptibility in the prenatal study in rats and rabbits and the 2-generation reproduction study rats, there are no concerns for the offspring toxicity observed in the developmental and reproductive toxicity studies for the following reasons:
 - Clear NOAELs and LOAELs were established in the fetuses/offspring for each of these studies:
 - The dose-response for these effects are well-defined and characterized.
 - Developmental endpoints are used for assessing acute dietary risks to the most sensitive population (females 13-49 years old) as well as all other short-and intermediate-term exposure scenarios.

- The chronic reference dose is greater than 300-fold lower than the dose at which the offspring effects were observed in the 2-generation reproduction studies.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to flutriafol in drinking water. These assessments will not underestimate the exposure and risks posed by flutriafol.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to flutriafol will occupy 44% of the aPAD for females 13-49 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to flutriafol from food and water will

utilize 74% of the cPAD for children 1-2 years old, the population group receiving the greatest exposure. Because there are no residential uses for flutriafol, the chronic aggregate risk includes food and drinking water only.

3. *Short-term and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Since flutriafol is not registered for any use patterns that would result in residential exposure, the short- and intermediate-term aggregate risk is the sum of the risk.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, flutriafol is classified as “not likely to be carcinogenic to humans.” EPA does not expect flutriafol to pose a cancer risk.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to flutriafol residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology gas chromatography/nitrogen/phosphorus detector (GC/NPD) for the proposed tolerances is available to enforce the tolerances recommended herein. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; email address: residuemethods@epa.gov.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDC section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDC section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There are no Codex MRLs for flutriafol in/on the proposed commodities.

C. Response to Comments

EPA received one comment to the Notice of Filing that stated, in part, that no residue should be allowed for flutriafol. The Agency understands the commenter's concerns and recognizes that some individuals believe that pesticides should be banned on agricultural crops. However, the existing legal framework provided by FFDC section 408 states that tolerances may be set when persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute. This citizen's comment appears to be directed at the underlying statute and not EPA's implementation of it; the citizen has made no contention that EPA has acted in violation of the statutory framework.

D. Revisions to Petitioned-For Tolerances

Based on the analysis of available field trial data and the Organisation for Economic Co-operation and Development (OECD) tolerance calculation procedure, EPA established a higher tolerance for cotton, gin byproducts than requested. For the same reason, EPA is granting a tolerance for vegetable, leafy, except *Brassica*, crop group 4, except head lettuce and radicchio and is not granting separate subgroup tolerances for leafy greens (subgroup 4A) except head lettuce and leaf petioles (subgroup 4B). Based on the proposed uses and the resulting livestock dietary burdens, EPA is setting a poultry, fat tolerance and is increasing tolerances for cattle, liver; goat, liver; horse, liver; sheep, liver; and milk. Based upon the previous explanation, EPA is establishing tolerances for poultry, meat byproducts below the level requested. Since residues in hog tissue were near the Limit of Quantification (LOQ), EPA determined that separate tolerances in or on hog liver and hog meat byproducts except liver were unnecessary and is establishing a tolerance in or on hog meat byproducts only. Although the petition requested that EPA remove a tolerance for hog meat byproducts, no such tolerance existed before this rule, so EPA could not remove it. A tolerance in or on hog, muscle was not established as it was granted as part of a previous tolerance petition (PP 3F8174) under docket ID numbers EPA-HQ-OPP-2013-0654 and EPA-HQ-OPP-2013-0655.

V. Conclusion

Therefore, tolerances are established for residues of flutriafol, in or on *Brassica*, head and stem (subgroup 5A) at 1.5 ppm; *Brassica*, leafy greens (subgroup 5B) at 7.0 ppm; cotton, gin byproducts at 6.0 ppm; cotton, undelinted seed at 0.50 ppm; egg at 0.01 ppm; grain, aspirated fractions at 6.0 ppm; hog, meat by products at 0.05 ppm; lettuce,

head at 1.5 ppm; liver (cattle, goat, horse, sheep) at 1.0 ppm; milk at 0.02 ppm; poultry, fat at 0.01 ppm; poultry, meat byproducts at 0.01 ppm; radicchio at 1.5 ppm; sorghum, grain forage at 2.0 ppm; sorghum, grain, grain at 1.5 ppm; sorghum, grain, stover at 6.0 ppm and vegetable, leafy, except *Brassica*, crop group 4, except head lettuce and radicchio at 10 ppm.

Also, as a housekeeping measure, this regulation removes the entries for the tolerances contained in paragraph (b) of § 180.629 as those tolerances expired on December 31, 2014.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

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

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: January 28, 2015.

Susan T. Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180--[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346a and 371.

2. In §180.629:

i. Add alphabetically the entries for “*Brassica*, head and stem (subgroup 5A)”; “*Brassica*, leafy greens (subgroup 5B)”; “Cotton, gin byproducts”; “Cotton, undelinted seed”; “Egg”; “Hog, meat byproducts”; “Lettuce, head”; “Poultry, fat”; “Poultry, meat byproducts”; “Radicchio”; “Sorghum, grain, forage”; “Sorghum, grain, grain”; “Sorghum, grain, stover” and “Vegetable, leafy, except *Brassica*, crop group 4, except head lettuce and radicchio” to the table in paragraph (a).

ii. Revise the entries for “Cattle, liver”; “Goat, liver”; “Grain, aspirated fractions”; “Horse, liver”; “Milk”; and “Sheep, liver” in the table in paragraph (a).

iii. Revise paragraph (b).

The amendments read as follows:

§ 180.629 Flutriafol; tolerances for residues.

(a) General. * * *

Commodity	Parts per million
* * *	* * * *
<i>Brassica</i> , head and stem (subgroup 5A)	1.5
<i>Brassica</i> , leafy greens (subgroup 5B)	7.0
* * *	* * * *
Cattle, liver	1.0
* * *	* * * *
Cotton, gin byproducts	6.0
Cotton, undelinted seed	0.50
* * *	* * * *
Egg	0.01
* * *	* * * *
Goat, liver	1.0
* * *	* * * *
Grain, aspirated fractions	6.0
* * *	* * * *
Hog, meat byproducts	0.05
* * *	* * * *
Horse, liver	1.0
* * *	* * * *
Lettuce, head	1.5
* * *	* * * *
Milk	0.02
* * *	* * * *
Poultry, fat	0.01
Poultry, meat byproducts	0.01
Radicchio	1.5
* * *	* * * *
Sheep, liver	1.0
* * *	* * * *
Sorghum, grain, forage	2.0
Sorghum, grain, grain	1.5
Sorghum, grain, stover	6.0
* * *	* * * *
Vegetable, leafy, except <i>Brassica</i> , crop group 4, except head lettuce and radicchio	10
* * *	* * * *

* * * * *

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

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