

commodities to the table in paragraph (a) to read as follows:

§ 180.507 Azoxystrobin; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
* * *	* * *
Caneberry sub-group	5.0
Cranberry	0.50
* * *	* * *
Hops, dried cones	20.0
* * *	* * *
Pea and bean, dried shelled, except soybean, subgroup, except cowpea, and field pea	0.50
Pea and bean, succulent shelled, subgroup, except cowpea	0.50
Pistachio	0.50
* * *	* * *
Vegetable, legume, edible podded, subgroup, except soybean	3.0
* * *	* * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2002-0253; FRL-7273-7]

Diffubenzuron; Pesticide Tolerances for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of diflubenzuron in or on forage and hay of alfalfa. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on alfalfa. This regulation establishes a maximum permissible level for residues of diflubenzuron in these feed commodities. The tolerances will expire and are revoked on June 30, 2004.

DATES: This regulation is effective September 20, 2002. Objections and requests for hearings, identified by docket control number OPP-2002-0253,

must be received on or before November 19, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-2002-0253 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Conrath, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-9356; e-mail address: conrath.andrea@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 categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and

Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at <http://www.epa.gov/opptsfrs/home/guidelin.htm>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-2002-0253. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall # 2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for residues of the insecticide diflubenzuron, [N-[(4-chlorophenyl)amino]carbonyl]-2,6-difluorobenzamide], in or on alfalfa, forage and alfalfa, hay at 6.0 parts per million (ppm). These tolerances will expire and are revoked on June 30, 2004. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such

tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

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

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Recently, EPA has received objections to a tolerance it established for diflubenzuron on a different food commodity. The objections were filed by the Natural Resources Defense Council (NRDC) and raised several issues regarding aggregate exposure estimates and the additional safety factor for the protection of infants and children. Although these objections concern separate rulemaking proceedings under the FFDCA, EPA has considered whether it is appropriate to establish the emergency exemption tolerances for diflubenzuron while the objections are still pending.

Factors taken into account by EPA included how close the Agency is to concluding the proceedings on the objections, the nature of the current action, whether NRDC's objections

raised frivolous issues, and extent to which the issues raised by NRDC had already been considered by EPA. Although NRDC's objections are not frivolous, the other factors all support establishing these tolerances at this time. First, the objections proceeding is not near to conclusion. NRDC's objections raise complex legal, scientific, policy, and factual matters and on August 16, 2002, EPA extended (for an additional 30 days) the public comment period on these objections, first initiated for 60 days in the **Federal Register** of June 19, 2002 (67 FR 41628) (FRL-7167-7) and on August 16, 2002 (67 FR 53505) (FRL-7193-6). Second, the nature of the current action is extremely time sensitive as it addresses an emergency situation. Third, the issues raised by NRDC are not new matters but questions that have been the subject of considerable study by EPA and comment by stakeholders. Accordingly, EPA is proceeding with establishing these tolerances for diflubenzuron.

III. Emergency Exemption for Diflubenzuron on Alfalfa and FFDCA Tolerances

The Applicant (Utah Department of Agriculture and Food) states that outbreaks of the Mormon cricket and various grasshopper species have increased in Utah's alfalfa fields this season, due in large part to the drought being experienced. Because of the drought conditions, there is no feed on public lands for the insects, and the insects are moving faster to the private farmland in Utah. Historically, grasshoppers and crickets have posed a threat to all crops, even plaguing pioneers 150 years ago. The Mormon cricket can be economically devastating, and destroys sagebrush, alfalfa, small grains, seed, grasses, and vegetable crops. Grasshoppers have also been increasing in localized areas during the past four years, and in 2001, the Applicant states that crop production was hit hard from the heavily infested spots from both the grasshoppers and the Mormon cricket. Many fields left untreated in 2001 experienced a 100% reduction in yield, and the Applicant states that the infestation levels for 2002 are even greater than estimated. While there are several chemical controls registered for use in Utah for crickets and grasshoppers, regulations prohibiting more than one application combined with prohibitive costs make multiple applications an ineffective solution. The Applicant states that diflubenzuron is the only pesticide that has been proven effective for full-season control of grasshopper and cricket

outbreaks. Diflubenzuron has a longer period of residual activity than the registered alternatives, which allows for control of delayed hatching nymphs, later hatching grasshopper species, and secondary infestations, which precludes the need for additional applications. The Applicant asserts that the registered alternative have very short residual activity and/or are prohibitively expensive for use in this situation. Significant economic losses were expected to occur this year for alfalfa producers, without the use of diflubenzuron to control these pests. EPA has authorized under section 18 of FIFRA the use of diflubenzuron on alfalfa for control of the Mormon cricket and various grasshopper species in Utah. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of diflubenzuron in or on alfalfa forage and hay. In doing so, EPA considered the safety standard in section 408(b)(2) of the FFDCA, and EPA decided that the necessary tolerances under section 408(l)(6) of the FFDCA would be consistent with the safety standard and with section 18 of FIFRA. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is establishing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on June 30, 2004, under section 408(l)(5) of the FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on alfalfa forage and hay after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed the level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether diflubenzuron meets EPA's registration requirements for use on alfalfa or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of diflubenzuron

by a State for special local needs under section 24(c) of FIFRA. Nor do these tolerances serve as the basis for any State other than Utah to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for diflubenzuron, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

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

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of diflubenzuron and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of diflubenzuron in or on alfalfa hay and forage at 6.0 ppm.

No alfalfa residue data were submitted for this request. The proposed use rate of diflubenzuron for alfalfa is the same as that registered for use on grass. Therefore, the data from grass was translated to alfalfa for this section 18 use. The established tolerances for meat and milk commodities are adequate to cover any residues which may result from this section 18 use. Based upon previous feeding studies, the secondary residues in meat and milk will not

exceed the established tolerances as a result of this section 18 use.

Residues of diflubenzuron in/on alfalfa are not expected to increase dietary exposure. Since alfalfa is not consumed by humans, any exposure to residues of diflubenzuron from this emergency exemption use will result from the consumption of meat or milk. The use of diflubenzuron in alfalfa is not expected to result in exceedances of the tolerances that already exist for meat and milk. Therefore, establishing the alfalfa tolerances will not increase the most recent estimated aggregate risks resulting from the use of diflubenzuron, as discussed in the **Federal Register** for February 15, 2002 (67 FR 7085) (FRL-6821-7) final rule establishing a tolerance for residues of diflubenzuron in/on pears, because in that prior action, risk was estimated assuming all meat and milk commodities contained tolerance level residues. Refer to the February 15, 2002 **Federal Register** document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon that risk assessment and the findings made in the **Federal Register** document in support of this action. Below is a brief summary of the aggregate risk assessment.

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. A summary of the toxicological dose and endpoints for diflubenzuron for use in human risk assessment is discussed in final rule mentioned above, published in the **Federal Register** of February 15, 2002.

EPA assessed risk scenarios for diflubenzuron under chronic exposures only. Acute toxicological endpoints

have not been identified for diflubenzuron, and there are no registered or proposed uses which would result in short- and intermediate-term exposure; thus these exposure analyses were not necessary. Although diflubenzuron itself is not classified as a carcinogen, two of its metabolites, PCA (p-chloroaniline) and CPU (p-chlorophenylurea) are probable human carcinogens and have been assigned Q1*s. Since these degradates are found in mushrooms, milk, and liver, as a result of diflubenzuron use, EPA has concluded that the residues of concern are diflubenzuron and its metabolites PCA and CPU.

The Dietary Exposure Evaluation Model (DEEMTM) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989-1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity.

The following assumptions were made for the chronic exposure assessments: Anticipated residue information based on field trial data, and percent of crop treated (%CT) information for some commodities were used (Tier 3). A value of 1% was used for %CT values <1%.

Using these exposure assessments, the EPA concluded that exposure to diflubenzuron from food will utilize <1% of the chronic population adjusted dose (cPAD) for the US Population, 5% for Infants (<1 yr old), and <1% for Children (1 to 6 years old). In addition, despite the potential for dietary exposure to diflubenzuron in drinking water, after calculating drinking water levels of concern (DWLOCs) and comparing them to conservative model estimated environmental concentrations (EECs) of diflubenzuron in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 1.

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO DIFLUBENZURON

Population Subgroup	cPAD (mg/kg)	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.02	<1	0.09	0.0023	700
All Infants (<1 yr)	0.02	5	0.09	0.0023	190
Children (1-6 yr)	0.02	<1	0.09	0.0023	200

Cancer aggregate risk assessments were not performed for diflubenzuron and PCA, since diflubenzuron is not a carcinogen and PCA is not a significant degradate in drinking water. The potential cancer risk from dietary (food

only), exposure to residues of PCA is 4.7×10^{-7} , which is negligible. The results of the cancer analysis for CPU indicate that the estimated cancer dietary (food only) risk from CPU 3.8×10^{-8} associated with the proposed use of

diflubenzuron is below the Agency's level of concern. In addition, there is potential for chronic dietary exposure to CPU in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA

does not expect the aggregate cancer risk to exceed EPA's level of concern, as shown in the following Table 2:

TABLE 2.—AGGREGATE CANCER RISK ASSESSMENT FOR EXPOSURE TO DIFLUBENZURON

Population Subgroup	Residential Exposure	Aggregate Cancer Risk (food and residential)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Cancer DWLOC (ppb)
U.S. population	0	3.8×10^{-8}	0.23	0.065	2.2

Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to diflubenzuron residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305-5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no Codex maximum residue limits (MRLs) established for diflubenzuron on alfalfa forage and hay. Therefore, no compatibility problems exist for the proposed tolerances.

C. Conditions

One application may be made using ground or aerial equipment, at a rate of 2 fl. oz. of product (0.0325 lb. active ingredient) per acre. A 14-day pre-harvest interval and a 12-hour re-entry interval must be observed.

VI. Conclusion

Therefore, the tolerances are established for residues of diflubenzuron, [N-[(4-chlorophenyl)amino]carbonyl]-2,6-difluorobenzamide], in or on alfalfa forage, and alfalfa hay at 6.0 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with

appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP-2002-0253 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 19, 2002.

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

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall #2, 1921

Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603-0061.

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

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP-2002-0253, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the

location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

VIII. Regulatory Assessment Requirements

This final rule establishes time limited tolerances under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a section 18 FIFRA exemption under section 408 of the FFDCA, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and

responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 11, 2002.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.377 is amended by adding the following language and table under paragraph (b) to read as follows:

§ 180.377 Diflubenzuron; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for the residues of diflubenzuron and its metabolites PCA (p-chloroaniline) and CPU (p-chlorophenylurea), expressed as the parent diflubenzuron, in connection with use of the pesticide under section 18 emergency exemptions granted by

EPA. The tolerances are specified in the following table, and will expire and be revoked on the dates specified.

Commodity	Parts per million	Expiration/revocation date
Alfalfa, forage	6.0	6/30/2004
Alfalfa, hay	6.0	6/30/2004

* * * * *

[FR Doc. 02-23819 Filed 9-19-02; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2002-0243; FRL-7200-8]

Halosulfuron-methyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of halosulfuron-methyl, methyl 5-[(4,6-dimethoxy-2-pyrimidinyl)amino] carbonylamino-sulfonyl-3-chloro-1-methyl-1H-pyrazole-4-carboxylate in or on asparagus; vegetables, fruiting (except cucurbits), group; bean, dry, seed and bean, snap, succulent. Gowan Company and Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective September 20, 2002. Objections and requests for hearings, identified by docket ID number OPP-2002-0243, must be received on or before November 19, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket ID number OPP-2002-0243 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Tompkins and Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-5687 and (703) 308-9368, respectively; e-mail address:

tompkins.jim@epa.gov and
jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet home page at <http://www.epa.gov/>. To access this document, on the home page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR

part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket ID number OPP-2002-0243. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

II. Background and Statutory Findings

In the **Federal Register** of June 3, 2002 (67 FR 38276) (FRL-7179-2), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104-170), announcing the filing of a pesticide petition (PP 1E6322) by Interregional Research Project Number 4 (IR-4), 681 U.S. Highway 1 South, North Brunswick, New Jersey 08902-3390. In addition to the **Federal Register** of August 31, 2001 (66 FR 45993) (FRL-6796-1), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA) 21 U.S.C. 346a, as amended by the FQPA announcing the filing of pesticide petitions 0F6169 and 1F6229) by Gowan Company, P.O. Box 5569; Yuma, AZ 85366. These notices included a summary of the petitions prepared by Gowan Company, the registrant. There were no comments received in response to these notices of filing.