List of Subjects

32 CFR Part 255

Armed forces, Health care, Health records, Privacy.

32 CFR Part 340

Organization and functions.

PARTS 255 AND 340—[REMOVED]

Accordingly, by the authority of 10 U.S.C. 301, 32 CFR parts 255 and 340 are removed.

Dated: January 24, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–2753 Filed 2–4–97; 8:45 am]

BILLING CODE 5000–04–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP–5F4578/R–2277; FRL–5585–8]

RIN 2070–AB78

Glufosinate Ammonium; Tolerances for Residues

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes time-limited tolerances for residues of the herbicide glufosinate ammonium (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-, monoammonium salt) and its metabolites: 2-acetamino-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid, in or on various raw agricultural commodities (RACs), derived from transgenic field corn and transgenic soybeans. AgrEvo USA Co. submitted a petition to EPA under the Federal Food, Drug and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act of l996 (FQPA) requesting the tolerances.

EFFECTIVE DATE: This regulation becomes effective February 5, 1997. The tolerances expire and are revoked automatically without further action by EPA on July 13, l999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [PP–5F4578/R–2277], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically to the OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [PP–5F4578/R–2277]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit IX. of this preamble.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Product Manager (PM) 23, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)-305-6224; e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 25, 1995 (60 FR 54689)(FRL–4982–4), EPA issued a notice pursuant to section 408(d) of FFDCA, 21 U.S.C. 346a(d), announcing the filing of a pesticide tolerance petition by AgrEvo USA Co., Little Falls One, 2711 Centerville Rd., Wilmington, DE 19808. The petition requested that 40 CFR 180.473 be amended by adding tolerances for residues of glufosinate ammonium and its metabolites 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid, in or on the following RACs: corn, field, grain at 0.2 part per million (ppm); corn, field, forage at 4.0 ppm; corn, field, silage at 3.5 ppm; corn, field, fodder at 5.5 ppm; soybean seed at 2.0 ppm; and soybean hulls at 6.0 ppm. In the Federal Register of July 31, l996 (61 FR 39964)(FRL–5384–7), EPA issued a notice of an amendment to the petition. The tolerances requested were changed to residues of glufosinate-ammonium and its metabolites, 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphico-propionic acid expressed as glufosinate free acid equivalents, in or on the following RACs: corn, field, grain, at 0.2 ppm; corn, field, forage, at 4.0 ppm; corn, field, fodder, at 6.0 ppm; soybeans, at 2.0 ppm; aspirated grain fractions, at 25.0 ppm; eggs, at 0.05 ppm; poultry, meat at 0.05 ppm; poultry, fat at 0.05 ppm; and poultry, meat by-products (mbyp) at 0.10 ppm. The revised petition also requested that a maximum residue level be established for the same residues in or on the processed commodity under section 701 of FFDCA: soybean hulls at 5.0 ppm.

In the Federal Register of November 18, l996 (61 FR 58684) (FRL–5572–7), EPA issued a third Notice of Filing to amend the petition to bring the petition in conformity with FQPA (Pub. L. 104-170). The notice contained a summary of the petition prepared by the petitioner and this summary contained conclusions and arguments to support its conclusion that the petition complied with FQPA. In this instance the petitioner proposed to amend 40 CFR 180.473 by establishing tolerances for residues of glufosinate ammonium in or on the following RACs: corn, field, grain, at 0.2 ppm; corn, field, forage, at 4.0 ppm; corn, field, fodder, at 6.0 ppm; soybeans, at 2.0 ppm; soybean hulls, at 5.0 ppm; aspirated grain fractions, at 25.0 ppm; eggs, at 0.05 ppm; poultry, meat at 0.05 ppm; poultry, fat at 0.05 ppm; and poultry, mbyp at 0.10 ppm. The residues of glufosinate-ammonium were defined as butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-, monoammonium salt and its metabolites: 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid expressed as glufosinate free acid equivalents.

There were no comments or requests for referral to an advisory committee received in response to the notices of filing. The Notice of Filings were incorrectly stated for eggs and the poultry commodities because the residue chemistry data showed only the parent chemical and one metabolite, 3-methylphosphinico-propionic acid. The subject regulation is therefore amended accordingly. The data submitted in the

petition and other relevant material have been evaluated. The toxicology data listed below were considered in support of these tolerances.

I. Toxicological Profile

1. A battery of acute toxicity studies placing technical glufosinate-ammonium in Toxicity Categories II and III.

2. A 90-day feeding study in rats at dietary intakes of 0, 0.52, 4.1, 32, or 263 mg/kg/day with a no-observed-effect level (NOEL) of 4.1 mg/kg/day. The lowest-observed-effect level (LOEL) was established at 32 mg/kg/day based on increased absolute and relative kidney weights.

3. A 90-day feeding study in mice at dietary intakes of 0, 16.6, 67.1, or 278 mg/kg/day with a NOEL of 16.6 mg/kg/day and an LOEL of 67.1 mg/kg/day based on increased absolute and relative liver weights (both sexes) and an increase in serum potassium levels (males).

4. Three teratology studies in rats at doses from 0.5 to 250 mg/kg/day with no teratogenic effects occurring up to and including 250 mg/kg/day. A NOEL for developmental toxicity was 50 mg/kg/day, based upon an increase in the incidence of dilated renal pelvis and hydroureter in fetuses at 250 mg/kg/day. The maternal NOEL was 10 mg/kg/day, based on the finding of hyperactivity and vaginal bleeding of dams at 50 mg/kg/day.

5. A teratology study in rabbits at doses of 0, 2, 6.3, or 20 mg/kg/day with no teratogenic effects occurring up to and including 20 mg/kg/day, and a maternal NOEL of 6.3 mg/kg/day and a developmental NOEL of 20 mg/kg/day, the highest dose tested.

6. A two-generation reproduction study in rats at dietary concentrations of 0, 40, 120, or 360 ppm with an NOEL for reproductive effects at 120 ppm (equivalent to 12 mg/kg/day) based upon reduced number of pups in the high-dose group. The NOEL for parental toxicity was 40 ppm (4 mg/kg/day) based upon increased kidney weights in the high-dose group.

7. A 12-month feeding study in dogs at doses of 0, 2, 5, or 8.5 mg/kg/day. The NOEL was 5.0 mg/kg/day based upon the death of one male and one female dog at 8.5 mg/kg/day with no other treatment-related toxicity.

8. A mouse carcinogenicity study at doses of 0, 2.8, 10.8, or 22.7 mg/kg/day in males and 0, 4.2, 16.2, or 64.0 mg/kg/day in females for 104 weeks with no carcinogenic effects observed under the conditions of the study up to and including 64 mg/kg/day and a systemic NOEL of 10.8 and 16.2 for males and females, respectively, based on the dose-related increase in mortality.

9. A chronic feeding/carcinogenicity study in rats at dietary doses of 0, 2.5, 8.8, or 31.5 mg/kg/day (males) and 0, 2.4, 8.2, or 28.7 mg/kg/day (females) with an NOEL of 2.1 mg/kg/day for systemic effects based on an increase in kidney weights in females at the two higher doses. There were no treatment-related carcinogenic effects at any dose level. The study was determined to be unacceptable because a high enough dose was not tested.

10. Acceptable studies on gene mutation (*Salmonella*, *E coli.*, and mouse lymphoma assays), structural chromosomal aberration (*in vivo* micronucleus assay in mice), and other genotoxic effects (unscheduled DNA synthesis assay with rat hepatocytes) yielded negative results.

11. Pharmacokinetic and metabolism studies in rats indicated that approximately 80 to 90 percent of the orally administered dose of glufosinate ammonium remained unabsorbed and was eliminated in the feces. Approximately 10 to 15 percent was eliminated in the urine. The major metabolic pathway is oxidative deamination yielding the metabolite, 3-methyl-phospinico propionic acid.

II. Method of Determining Risks

1. *Human dietary exposure.* Residues in the agricultural commodities harvested from the crop cultured with the aid of the pesticide are determined by chemical analysis. To account for the diversity of growing conditions, culture practices, soil types, climatic conditions, crop varieties and methods of use of the pesticide, data from studies that represent the resulting commodities are collected and evaluated to determine an appropriate level of residue that would not be exceeded if the pesticide is used as represented in the studies. The conduct of the field trial and guidelines for determining the residues are given in EPA ''OPPTS Test Guidelines, Series 860, Residue Chemistry, August l996''(see 61 FR 44308, August 28, 1996, for availability of document)(FRL–5390–7).

The method of chemical analysis proposed for determining the residues in the various commodities is evaluated by a method ''try-out'' in EPA laboratories. If the method is found to be acceptable the Agency accepts the claim that a method of analysis is available for determining residues. The method must be appropriate for enforcement purposes. The presence of the pesticide or degradates of the pesticide in potable water may also be a source of dietary exposure that must be considered in establishing a tolerance level for a agricultural commodity.

The Reference Dose (RfD) is assumed to be the exposure at or below which daily aggregate exposure over a lifetime will not pose an appreciable risk to human health. To assure the adequacy of the RfD, the Agency uses an uncertainty factor in deriving it. The factor is usually 100, based on the assumption that certain segments of the human population could be as much as 100 times more sensitive than the species represented by the toxicology data.

If the pesticide is determined to be a human carcinogen, the toxicological end-point must be determined based on the nature of the carcinogenic response and a knowledge of its mode of action. The Agency uses a weight of evidence in classifying the potential of the pesticide as a human carcinogen. Glufosinate-ammonium has not been determined to be a human carcinogen, therefore a derived RfD was used as the toxicological end-point in the dietary risk assessments and the subject action. Available data show no indication that it is carcinogenic, however this Agency is requiring a repeat rat carcinogenicity study.

2. *Non-dietary exposure.* Margins of Exposures (MOEs) are determined for non-dietary exposures based on toxicological end-points and measured or estimated exposures. Dermal absorption studies are required for pesticidal chemicals that have serious toxic effects as identified by oral or inhalation studies, for which a significant route of human exposure is dermal and for which the assumption of 100% absorption does not produce an adequate margin of safety. Glufosinate ammonium has not been identified as having a serious toxic effects by either oral or inhalation routes of exposure. A rat glufosinate ammonium dermal absorption study at doses of 0.1, 1.0 and 10 mg/rat on 6 square centimeters of skin showed maximum levels of absorption between 4 to 10 hours. The absorption at 0.1 was 42.5 to 50.8% of the applied radioactivity, whereas at 10.0, 26% of the dose was absorbed.

The petitioner has informed EPA that a dermal absorption study was submitted to the State of California for the formulated product, that is to be registered for use in the culture of transgenic corn and soybeans. The petitioner stated that the data indicated that the dermal absorption by rats following 0.5- to 24-hour dermal exposures at dose levels of 12 to 1,218 micrograms per square centimeter averaged approximately 6%, with an upper limit of 19%. The only values

greater than 10% were following 24-hour exposures at dose level of 1,218 micrograms per square centimeter. The petitioner also stated that *in vitro* data with the same formulation suggest that the rate of penetration in rats is about 3 to 29 times higher than in humans, depending on the dose level.

An acceptable rat oncogenicity study is required and is one of the reasons for designating these tolerances ''time-limited'' with an expiration date. Without an acceptable rat oncogenicity study the risk from the many non-dietary uses can not be determined precisely. Also, without appropriate dermal absorption data EPA cannot determine the risks from the non-dietary use exposures. As an interim policy in safety decisions, EPA is using a default assumption based on the information available from similar pesticides. A maximum of 20% of the RfD is being assigned for all non-dietary uses of glufosinate ammonium in the risk analysis associated with this final rule.

III. Aggregate Exposures

1. *Food and feed uses.* The primary source for human exposure to glufosinate ammonium will be from ingestion of both raw and processed agricultural commodities as proposed in the November 18, 1996 Notice for Filing cited above and as established already by 40 CFR 180.473.

2. *Potable water.* There is presently no EPA Lifetime Health Advisory level for glufosinate ammonium and its degradates as drinking water contaminates. At the dosage of proposed uses and existing uses, the level of contamination of drinking water is not expected to be significant in the analysis of risk from the proposed and existing uses of this pesticide. At the maximum application rate of 0.75 lb per acre, the Agency does not expect residues to reach ground water.

3. *Non-dietary uses.* Glufosinate ammonium is registered for use as a post-emergent herbicide for non-food use-sites, such as areas around ornamentals, shade trees, Christmas trees, shrubs, walks, driveways, flower beds, farmstead buildings, in shelter belts, and along fences. It is also registered for use as a post-emergent herbicide on farmsteads, areas associated with airports, commercial plants, storage and lumber yards, highways, educational facilities, fence lines, ditch banks, dry ditches, schools, parking lots, tank farms, pumping stations, parks, utility rights-of-way, roadsides, railroads, and other public areas and similar industrial and nonfood crop areas. The exposure from these uses are expected to be dermal in nature. Results of an acute dermal toxicity study indicate that there is dermal absorption of glufosinate ammonium. This Agency has no quantitative data on dermal absorption for the formulation of this chemical. Without these data the Agency cannot determine the risk from exposure to children and adults, nor determine the aggregate risk to the public exposed by these non-food uses of this pesticide. For this reason, the Agency is using a maximum default assumption of 20% of the RfD (0.004 mg/kg bwt/day) as the exposure from these uses.

The petitioner has argued in their Notice of Filing that these non-food use exposures are not expected to pose any acute toxicity concerns and that the average homeowner would not expect to use pesticide products containing glufosinate ammonium more than four times per year, therefore such exposure would not ''normally be factored into a chronic exposure assessment.'' They did not address the matter of aggregate risk from the chronic effects of all such exposures, nor the need for such exposure data for determining the aggregate exposure.

4. *Cumulative exposure to substances with common mechanism of toxicity.* The mechanism of toxicity is believed to be caused by an interference with neurotransmitter function of glutamate, to which it is a close structural analog. No other substance with this mechanism of toxicity has been identified; for this reason, only exposures to glufosinate ammonium and its metabolites and degradates have been identified for quantitation in the risk assessment for the proposed tolerances.

IV. Determination of Safety for U.S. Population and Non-Nursing Infants

A. The U.S. Population

Based on a NOEL of 2.1 mg/kg bwt/day from a 2-year rat chronic toxicity study that demonstrated increased absolute and relative kidney weights in males as an endpoint effect, and using an uncertainty factor of 100 the Agency has determined a RfD of 0.02 mg/kg bwt/day for this assessment of risk. Based on the available toxicity data and the available exposure data identified above, the proposed tolerances will utilize 3.7% of the RfD. Existing tolerances utilize 2.07% of the RfD; therefore, the subject proposed tolerances for use of glufosinate ammonium in the culture of transgenic corn and soybeans will result in a cumulative total use of 25.77% of the RfD, when the 20% default assumption for the non-food use exposures is included.

B. Non-Nursing Infants

Exposure to non-nursing infants as a result of the use of glufosinate ammonium in the culture of transgenic corn and soybeans will result in the use of 17.2% of the RfD. Existing exposures from established tolerances utilize 10.6% of the RfD. The cumulative exposure will be 47.8% of the RfD, when the 20% default assumption for the non-food uses are included.

C. Nonfood Uses

Exposure from nonfood uses of glufosinate ammonium and from contaminated potable water sources have not been precisely addressed in this assessment. However, EPA does not foresee that these exposures will result in a cumulative level that exceeds the RfD. EPA concludes that there is reasonable certainty that no harm will result from the aggregate exposures to residues and degradates of glufosinate ammonium.

V. Determination of Safety for Infants and Children

Risk to infants and children was determined by use of three teratology studies in rats that had a NOEL for developmental toxicity of 2.24 mg/kg/day, based on an increase in the incidence of dilated renal pelvis with dyroureter in the fetuses at 10 mg/kg/day and a maternal NOEL also 2.24 mg/kg/day and a teratology study in rabbits that had a NOEL of 20 mg/kg/day for developmental effects and a maternal NOEL of 6.3 mg/kg/day, and a two-generation reproduction study in rats that had a NOEL of 12 mg/kg/day for reproductive effects. The effect was reduced number of pups in the high-dose group. The NOEL for parental toxicity was also 12 mg/kg/day based upon increased kidney weights in the high-dose group.

FFDCA section 408 provides that EPA shall apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the data base unless EPA determines that such additional factor is not necessary to protect the safety of infants and children. Based on current data requirements, the data base relative to pre- and post-natal toxicity is complete. The NOEL of 2.1 mg/kg bwt/day from a 2-year rat chronic toxicity study is lower than the NOELs from the developmental studies in rats and rabbits. In the reproduction study, the NOEL was about 6 times greater than the NOEL used for establishing the RfD. Effect of

pups in the reproduction study did not indicate a greater sensitivity for infants and children. Therefore, EPA concludes that an additional uncertainty factor is not necessary to protect the safety of infants and children and that the RfD at 0.02 mg/kg/day is appropriate for assessing aggregate risk to infants and children. The percent of the RfD that will be utilized by the aggregate exposure to glufosinate ammonium will range from 29.098 for children 7-12 years old, up to 48.303 for non-nursing infants. Therefore, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure.

VI. Other Considerations

A. Endocrine Effects

An evaluation of the potential effects on the endocrine systems of mammals has not been determined; however, no evidence of such effects were reported in the chronic toxicology studies described in Unit I. in this document. There were no observed pathology of the endocrine organs in these studies. There is no evidence at this time that glufosinate ammonium causes endocrine effects.

B. Metabolism in Plants and Animals

The metabolism of glufosinate ammonium in plants and animals is adequately understood for the purposes of these tolerances. The only crop residue found after the preemergence use is the metabolite 3-methylphosphinico-propionic acid, which is found in only trace quantities. With the exception of corn grain, the principal residue identified in the metabolism studies after post-emergence use of glufosinate ammonium was 2-acetamido-4-methylphosphinico-butanoic acid, with lesser quantities of glufosinate and 3-methylphosphinico-propionic acid. In corn grain, which exhibits much lower total radio-labeled residues than the other commodities, the principal residue identified was 3-methylphospinico-propionic acid, with lesser amounts of 2-acetamido-4-methylphosphinico-butanoic acid.

C. Analytical Method

There is a practical analytical method for detecting and measuring levels of glufosinate ammonium and its metabolites in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. The proposed analytical method for determining residues is high-pressure liquid chromatography. EPA has provided information on this method to the Food and Drug Administration. Because of the long lead time from establishing these tolerances to publication, the enforcement methodology is being made available in the interim to anyone interested in pesticide enforcement when requested by mail from: Calvin Furlow, Public Response Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone umber: Rm. 1130A, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)-305-5937.

D. International Tolerances

The following Codex Alimentarius Commission (Codex) Maximum Residue Levels (MRLs) for glufosinate ammonium have been established: maize, at 0.1 ppm, maize forage, at 0.2 ppm, and soya bean (dry) at 0.1 ppm. These tolerances are for use-patterns for no-till systems of culture of non-transgenic corn and soybeans. AgrEvo USA Co. states that a petition for the same tolerances as proposed in the November 18, l996 EPA Notice of Filing is pending with the Joint Meeting of the Food and Agriculture Organization Panel of Experts on Pesticide Residues in Food and the Environment and the World Health Organization Expert Group on Pesticide Residues to establish Codex MRLs for use of glufosinate ammonium in the culture of transgenic corn and soybeans. The proposed tolerances for corn and soybean commodities are greater than the MRLs established by the Codex Alimentarius Commission because glufosinate ammonium is applied as a post-emergence herbicide in the culture of transgenic corn and soybeans; whereas the Codex MRLs are for preemergence applications of this herbicide in the culture of these crops. Studies showed the level of residues from the post-emergence use was greater.

E. Data Gaps

A data gap currently exists for a rat carcinogenicity study. All tolerances are time-limited because of this data gap. The time limitation allows for development and review of the data. A repeat rat carcinogenicity study has been required and is expected to be submitted and reviewed prior to the expiration date of these tolerances. A mouse carcinogenicity and a rat carcinogenicity study have been reviewed and showed no evidence of carcinogenicity. However, the EPA Peer Review Committee determined that the rat study was flawed in that the study was not conducted at the maximum tolerated dose. Based on the toxicological data and the levels of exposure, EPA has determined that the existing tolerances and the proposed tolerances will be safe.

VII. Summary of Findings

The analysis for glufosinate ammonium using tolerance level residues shows that the existing uses on apples, grapes, and tree nut group and the proposed uses on transgenic corn and soybeans will not cause exposure to exceed the levels at which the Agency believes there is an appreciable risk. All population subgroups examined by EPA are exposed to glufosinate ammonium residues at levels below 100% of the RfD for chronic effects. Based on the information cited above, the Agency has determined that the establishment of the time-limited tolerances by amending 40 CFR 180.473 will be safe; therefore, the time-limited tolerances are established as set forth below.

VIII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (1)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which governs the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by April 7, 1997, file written objections to any aspect of this regulation (including the automatic revocation provision) and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ADDRESSES section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(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). 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 issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). 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.

IX. Public Docket

A record has been established for this rulemaking under docket control number [PP–5F4578/R–2277]. A public version of this record, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operation Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

The official record for this rulemaking, as well as the public version, as described above, is kept in paper form. Accordingly, in the event there are objections and hearing requests, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record. The official rulemaking record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

X. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and since this action does not impose any information collection requirements subject to approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, it is not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, l993), or special considerations as required by Executive Order 12898 (59 FR 7629, February 16, l994).

Because tolerances established on the basis of a petition under section 408(d) of FFDCA do not require issuance of a proposed rule, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act (RFA), 5 U.S.C. 604(a), do not apply. Prior to the recent amendment of the FFDCA, EPA had treated such rulemakings as subject to the RFA; however, the amendments to the FFDCA clarify that no proposal is required for such rulemakings and hence that the RFA is inapplicable.

Pursuant to 5 U.S.C. 801(a)(1)(A), EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This 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 17, 1997.

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. 346a and 371.

2. In § 180.473, by adding alphabetically the following commodities and tolerances to paragraph (a) and adding paragraph (c) to read as follows:

§ 180.473 Glufosinate ammonium; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration date
* * * * *		
Eggs	0.05	July 13, 1999.
* * * * *		
Poultry, fat	0.05	July 13, 1999.
Poultry, mbyp	0.10	July 13, 1999.
Poultry, meat	0.05	July 13, 1999.
* * * * *		

* * * * *

(c) Time-limited tolerances are established for residues of the herbicide glufosinate ammonium (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-,monoammonium salt), and its metabolites 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid in or on the following raw agricultural commodities derived from transgenic corn and soybeans that are tolerant to the herbicide glufosinate ammonium, as provided below. These tolerances shall expire and be automatically revoked on July 13, l999.

Commodity	Parts per million	Expiration date
Aspirated Grain Fractions	25.0	July 13, 1999.
Corn, field, forage	0.4	July 13, 1999.
Corn, field, grain	0.2	July 13, 1999.
Corn, field, stover	6.0	July 13, 1999.
Soybean, hulls	5.0	July 13, 1999.
Soybeans	2.0	July 13, 1999.

[FR Doc. 97–2838 Filed 2–4–97; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4700

[NV–960–1060–00–24 1A]

RIN 1004–AC61

Adoption Fee for Wild Free-Roaming Horses and Burros

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: In this final rule, the Bureau of Land Management (BLM) revises its procedures used to set adoption fees for Wild Horses and Burros. The purpose of the amendment is to allow BLM more flexibility in establishing adoption fees, to recover a higher proportion of the associated cost, and encourage adoptions consistent with the basic goals of the Wild Horse and Burro adoption program. The rule also allows BLM to use competitive methods.

EFFECTIVE DATE: March 7, 1997.

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SUPPLEMENTARY INFORMATION:

I. Background

In the 1950's a group concerned with the welfare of America's diminishing wild horse herds formed under the leadership of Velma Bronn Johnson. Better known as ''Wild Horse Annie,'' this woman from Nevada, along with many others, worked to ensure a place for wild horses and burros on Federal rangelands.

In 1971, Congress passed The Wild Free-Roaming Horse and Burro Act. To keep the ecological balance and maintain healthy rangelands, wild horses and burros are periodically removed and placed in the Adopt-A-Horse or Burro Program. This successful program, begun in 1973, has offered animals for ''adoption'' to qualified private individuals who agree to provide them humane treatment. Through the Adopt-a-Horse or Burro Program BLM placed over 150,000 animals in private care since 1976.

The current adoption fee of $125 for wild horses and $75 for wild burros was set in 1982. This fee is supposed to recapture some adoption cost, and assure a prompt adoption of animals after their removal from public lands. The adoption fee was originally set using the market price of horses in 1982. In the early 1980's the value of horses and burros was low because of an overabundance of these animals in the market. Currently the market value of the lowest quality domestic horse is about $300, well above the fee BLM charges. Additionally, since 1982, BLM's costs to feed, provide veterinary care and transport wild horses and burros have increased significantly. A flexible adoption fee system will shift some of the cost of the adoption from the general taxpayer to the individuals who benefit directly from this program. Future adoption fees will reflect market value of the animals and strike a balance between supply and demand. The increased cost per animal will help insure that the adopters are adopting the animal for itself rather than future financial gain before or after title is received.

Under this system BLM may offer horses and burros to the public at competitive adoptions. Animals not selected by the public through a competitive adoption would be available at the established adoption fee. The BLM Director may reduce or waive the adoption fee for animals that are unadoptable at the base fee. BLM is not changing the qualification requirements for adoption of a wild horse or burro. Adopters must meet the requirements of 43 CFR part 4750 before BLM allows them to participate in an adoption event.

Before each adoption event BLM will provide information on how the adoption will be conducted and the method to be used in establishing adoption fees.

II. Discussion of Final Rule and Response to Comments

The BLM received 25 comments in response to the proposed rule which was published in the Federal Register on July 10, 1996 (61 FR 36333). Five of the comments did not relate specifically to the adoption fee issue or involved other aspects of the Wild Horse and Burro program. Fourteen comments favored the changes BLM is making to increase the flexibility of the adoption fee system. Those in favor of the proposal expressed the view that cost to the American taxpayer should be reduced and the beneficiaries of the program should pay a reasonable price for the benefits they receive. Several believed that a competitive bidding system is a reasonable means to determine the price to adopt an individual animal. Seven of those who expressed favorable comments about an increased fee also voiced opposition to what they perceived as a requirement for use of competitive adoptions. Most of those who expressed concern about the competitive bidding aspect of the proposed rule favored an across-the-board increase in fees for all animals.

BLM is making the regulatory change to provide flexibility in the establishment of adoption fees and to allow the public to decide what they will pay to adopt an individual animal. One element of this increased flexibility involves appropriate use of competitive adoptions. Because of the comments received, BLM revised the regulation at 43 CFR 4750.4–2(b) to clarify that competitive adoptions are one way of establishing adoption fees, but not the only way.

Six comments expressed opposition to the proposed change. The primary reason for this opposition was a concern that under a competitive system only people who are well off could own a more desirable horse. BLM believes it is appropriate to allow individual adopters to decide through a competitive