Dated: November 2, 2012.

Adam J. Szabun,
Director, Office of Foreign Assets Control.

Approved: November 2, 2012.

David S. Cohen,
Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180


Dinotefuran; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of dinotefuran in or on pome fruits and stone fruits. This action is in response to EPA’s granting of emergency exemptions under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on pome fruits and stone fruits. This regulation establishes a maximum permissible level for residues of dinotefuran in or on these commodities. The time-limited tolerances expire on December 31, 2015.

This regulation also makes the systematic chemical name for dinotefuran consistent within the section and with EPA’s policy on chemical nomenclature.

DATES: This regulation is effective November 9, 2012. Objections and requests for hearings must be received on or before January 8, 2013, 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–2012–0755, 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), EPA West 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: Andrea Conrath, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–9356; email 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. 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?


C. How can I file an objection or hearing request?

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0755 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 January 8, 2013. Addresses for mail and 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–2012–0755, 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 of your objection or request for a hearing on this regulation, please contact the Docket Management Facility between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays, at (703) 305–5000.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with FFDCA sections 408(e) and 408(l)(6), 21 U.S.C. 346a(e) and 346a(l)(6), is establishing time-limited tolerances for combined residues of dinotefuran, (RS)-1-methyl-2-nitro-3-[(tetrahydro-3-furanyl)methyl]guanidine, including its metabolites and degradates, in or on pome fruits and stone fruits at 1.0 part per million (ppm). These time-limited tolerances expire on December 31, 2015. Section 408(l)(6) of 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 FIFRA section 18. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on FIFRA section 18 related time-limited tolerances to set binding precedents for the application of FFDCA section 408 and the safety standard to other tolerances and exemptions. Section 408(e) of 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 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.” EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemptions for Dinotefuran on Pome Fruits and Stone Fruits and FFDCA Tolerances

Several States requested emergency exemptions claiming that the abrupt increase and spread of damaging populations of the Brown Marmorated Stink Bug (BMSB) resulted in an urgent and non-routine pest control situation. The available pesticides for BMSB control are either ineffective, adversely impact integrated pest management programs, and/or have use limitations that make them unsuitable for season-long control of BMSB. The States asserted that without the use of dinofeturan as an additional pest management tool for pome and stone fruit orchards, uncontrolled infestations of BMSB are likely to result in economic losses in excess of 20%. After having reviewed the submissions, EPA determined that an emergency condition exists for these States, and that the criteria for approval of the emergency exemptions were met. EPA authorized specific exemptions under FIFRA section 18 for the use of dinofeturan on pome fruits and stone fruits for control of the BMSB in Delaware, Maryland, New Jersey, North Carolina, Pennsylvania Virginia, and West Virginia to use this pesticide on the applicable crops under FIFRA section 18 absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemptions for dinofeturan, contact the Agency’s Registration Division at the address provided under "FOR FURTHER INFORMATION CONTACT."

IV. 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 * * *.”

As part of its evaluation of the emergency exemption applications, EPA assessed the potential risks presented by residues of dinofeturan in or on pome fruits and stone fruits. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(b)(6) would be consistent with the safety standard and with FIFRA section 18.

EPA has evaluated the use of dinofeturan on pome fruits and stone fruits, as well as various other crops, and recently established tolerances for similar use patterns, in the Federal Register issue of September 12, 2012 (77 FR 56133) (FRL–9359–6) in association with requests for tolerances to support registrations of dinofeturan under section 3 of FIFRA.

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 dinofeturan including exposure resulting from the tolerances established by this action.

In the September 12, 2012 Federal Register issue, EPA published a final rule establishing tolerances for residues of dinofeturan in 40 CFR 180.603(a) in or on berry, low growing, except strawberry, subgroup 3–07H; fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F; onion, bulb, subgroup 3–07A; onion, green, subgroup 3–07B; peach; tea, dried; vegetable, tuberous and corm, subgroup 1C; and watercress. A summary of the toxicological endpoints for dinofeturan used for human risk assessment is discussed in Units III.A and B. of the September 12, 2012 final rule.

The human health risk assessment used to support the September 12, 2012 final rule (“Dinofeturan: Human Health Risk Assessment for Proposed Section 3 Uses on Tuberous and Corm Vegetables Subgroup 1C, Onion Subgroup 3–07A, Onion Subgroup 3–07B, Small Fruit Subgroup 13–07F, Berry Subgroup 13–07H, Peach, and Watercress, And a Tolerance on Imported Tea”), took into account the assumption that dinofeturan would be used on pome fruits and stone fruits pursuant to emergency exemptions.

Therefore the aggregate risks for dinofeturan for this action are not changed from those discussed in the September 12, 2012 final rule.

In its aggregate assessment of exposures and risks associated with dinofeturan, EPA concluded the following: That the acute dietary exposure from food and water to dinofeturan will occupy 5.8% of the acute population adjusted dose (aPAD) for children 1–2 years old, the population group receiving the greatest exposure; that chronic exposure to dinofeturan from food and water will utilize 2.6% of the chronic population adjusted dose (cPAD) for children 1–2 years old, the population group...
receiving the greatest exposure; and that the combined short-term risk from food, water, and residential exposures result in an aggregate margin of exposure (MOE) of 3,000 for children 1–2 years old from hand to mouth exposure from treated turf, the scenario with the highest exposure. Because EPA’s level of concern for dinotefuran is a MOE of 100 or below, the MOEs are not of concern. Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, dinotefuran is not expected to pose a cancer risk to humans.

Therefore, EPA concluded that there is a reasonable certainty that no harm will result to the general population and to infants and children from aggregate exposure to dinotefuran residues. Refer to the September 12, 2012 final rule, available at http://www.regulations.gov, for a summary of the aggregate risk assessments and determination of safety. A more detailed discussion of the aggregate risk assessments and determination of safety may be found at http://www.regulations.gov in the document titled “Revised: Dinotefuran: Human Health Risk Assessment for Proposed Section 3 Uses on Tuberous and Corm Vegetables Subgroup 1C, Onion Subgroup 3–07A, Onion Subgroup 3–07B, Small Fruit Subgroup 13–07F, Berry Subgroup 13–07H, Peach, and Watercress, And a Tolerance on Imported Tea” in docket ID number EPA–HQ–OPP–2011–0433.

EPA relies upon those risk assessments and the findings made in the Federal Register document in support of this action.

V. Other Considerations

A. Analytical Enforcement Methodology

There are several analytical methods available for determination of residues of dinotefuran and its metabolites. For determination of dinotefuran and its metabolites, DN, 1-methyl-3-(tetrahydro-3-furylmethyl)guanidine, and UF, 1-methyl-3-(tetrahydro-3-furylmethyl)urea, a high performance liquid chromatography/tandem mass spectrometry (HPLC/MS/MS) method is available. For the determination of residues of dinotefuran only, an HPLC/ultraviolet (UV) detection method is available. For the determination of only the metabolites (DN and UF), HPLC/MS and HPLC/MS/MS methods are available. These methods are adequate to enforce the tolerance expression.

The methods 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 FFDCA 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, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There are currently no Codex, Canadian or Mexican MRLs established for dinotefuran.

VI. Conclusion

Therefore, time-limited tolerances are established for residues of dinotefuran, (RS)-1-methyl-2-nitro-3-[(tetrahydro-3-furylmethyl)guanidine, including its metabolites and degradates, in or on fruit, pome, group 11 and fruit, stone, group 12 at 1.0 ppm. These tolerances expire on December 31, 2015. EPA is also revising 40 CFR 180.603(b) to use the same systematic chemical name for dinotefuran as is presently used in 40 CFR 180.603(a), for purposes of consistency within the section and with EPA’s policy regarding chemical nomenclature.

VII. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA sections 408(e) and 408(l)(6). 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 in accordance with FFDCA sections 408(e) and 408(l)(6), 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.

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).

VIII. 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 as required by the Congressional Review Act (5 U.S.C. 801 et seq.).
PART 180—[AMENDED]

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


2. In §180.603, revise paragraph (b) to read as follows:

§180.603 Dinotefuran; tolerances for residues.

(b) Section 18 emergency exemptions. Time-limited tolerances are established for residues of dinotefuran, (RS)-1-methyl-2-nitro-3-((tetrahydro-3-furylmethyl)guanidine, including its metabolites and degradates, in or on the commodities in the following table, resulting from use of the pesticide pursuant to FIFRA section 18 emergency exemptions. Compliance with the tolerance levels specified in the table is to be determined by measuring only the sum of dinotefuran and its metabolites DN, 1-methyl-3-((tetrahydro-3-furylmethyl)guanidine, and UF, 1-methyl-3-((tetrahydro-3-furylmethyl)urea, calculated as the stoichiometric equivalent of dinotefuran, in or on the commodities listed in the table. The tolerances expire and are revoked on the dates specified in the table.

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Parts per million</th>
<th>Expiration/revocation date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fruit, pome, group 11</td>
<td>1.0</td>
<td>12/31/15</td>
</tr>
<tr>
<td>Fruit, stone, group 12</td>
<td>1.0</td>
<td>12/31/15</td>
</tr>
<tr>
<td>Rice, grain</td>
<td>2.8</td>
<td>12/31/12</td>
</tr>
</tbody>
</table>

* * * * *

[FR Doc. 2012–27403 Filed 11–8–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 206

[Docket ID FEMA–2012–0004]

RIN 1660–AA75

Debris Removal: Eligibility of Force Account Labor Straight-Time Costs Under the Public Assistance Program for Hurricane Sandy

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim final rule.

SUMMARY: The Fiscal Year 2007 Department of Homeland Security Appropriations Act authorized a Public Assistance Pilot Program intended to reduce the costs to the Federal government of providing assistance to States and local governments; increase flexibility in the administration of assistance; and expedite the provision of assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Due to the current pressing need for efficient and timely recovery from a catastrophic disaster event, Hurricane Sandy, which has cast widespread debris over a major portion of the eastern seaboard of the United States, this rule implements one of the debris-related Public Assistance Pilot procedures: it allows for the reimbursement of the straight- or regular time salaries and benefits of the employees of Public Assistance applicants who perform disaster-related debris and wreckage removal work for any major disaster or emergency declared by the President on or after October 27, 2012, in response to Hurricane Sandy.

DATES: This interim final rule is effective November 9, 2012, and applicable October 27, 2012. Comments must be submitted by January 8, 2013.


SUPPLEMENTARY INFORMATION:

I. Background

A. The Public Assistance Program

1. General

Each year, the United States is struck by natural disasters, which may include events such as storms, earthquakes, volcanic eruptions, and landslides, as well as events that occur from various other causes, such as fires, floods, and explosions. When a locality is, or will be, overwhelmed by the magnitude of the damage from any such event, the community turns to the State for help. If it is evident that the situation is or will be beyond the combined capabilities of local and State resources, the Governor may request that the President declare that an emergency or major disaster exists in the State, under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121–5207.

If the President declares an emergency or major disaster and authorizes Public Assistance, FEMA may award Public Assistance grants to assist State and local governments (including Indian Tribal governments) and certain private nonprofit (PNP) organizations as defined in subpart H of 44 CFR part 206 (collectively referred to as “applicants,” “grantees,” or “subgrantees”). Public Assistance grants assist State, Tribal, and local governments with the response to and recovery from the declared event. Specifically, the Public Assistance program provides assistance for debris removal, emergency protective measures, and permanent restoration of public infrastructure. FEMA refers to debris removal and emergency protective measures as “emergency work.” FEMA also categorizes these types of work as Category A (debris removal) and Category B (emergency protective measures). Category B includes debris removal costs that are incurred as emergency protective measures, such as