EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation (former SIP citation)
*	*	*	*	*
Part I Special Provisions				
*	*	*	*	*
5–40–20	Compliance	12/12/07	02/24/10 [Insert page number where the document begins].	Revisions to paragraph A.3.
*	*	*	*	*
9 VAC 5 Chapter 50 New and Modified Stationary Sources				
*	*	*	*	*
Part I Special Provisions				
*	*	*	*	*
5–50–20	Compliance	12/12/07	02/24/10 [Insert page number where the document begins].	Revisions to paragraph A.3.
*	*	*	*	*

* * * * *

[FR Doc. 2010–3512 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0529; FRL–8812–1]

Laminarin; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of laminarin in or on all food commodities when applied preharvest as a biochemical pesticide to stimulate natural defense mechanisms in plants. Laboratoires Goëmar SA c/o SciReg, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of laminarin.

DATES: This regulation is effective February 24, 2010. Objections and requests for hearings must be received on or before April 26, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0529. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Chris Pfeifer, Biopesticides and Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0031; e-mail address: *pfeifer.chris@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. 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–2008–0529 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 April 26, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2008–0529, by one of the following methods:

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

II. Background and Statutory Findings

In the **Federal Register** of July 31, 2008 (73 FR 44719) (FRL–8374–3), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 7E7276) by Laboratoires Goëmar SA c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of laminarin. This notice included a summary of the petition prepared by the petitioner Laboratoires Goëmar SA c/o SciReg, Inc. There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(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. Pursuant to section 408(c)(2)(B) of FFDCA, in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C) of FFDCA, which require 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.... " Additionally, section 408(b)(2)(D) of FFDCA requires that the Agency consider "available information concerning the cumulative effects of a particular pesticide's residues" and "other substances that have a common mechanism of toxicity."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information 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.

Laminarin, a naturally occurring β-glucan (polysaccharide carbohydrate), may be extracted from many types of brown algae (e.g., *Laminaria digitata*). Generally, β-glucans are major constituents in the bran of most cereal grains and are intentionally added to many dietary supplements and texturing agents; therefore, these carbohydrates are typically consumed as a regular part of the human diet. Laminarin, specifically, is an integral part of the human diet in countries such as Ireland, France, and Japan, where *Laminaria digitata* is used for sea-vegetable production. As a biochemical active ingredient, laminarin stimulates the natural defense reactions of agricultural crops such as fruiting vegetables, tomato, eggplant, pepper, zucchini, cucurbits, watermelon, melons, grape, apple, pear, and strawberries against particular disease organisms (e.g., gray mold, powdery mildew, downy mildew, fire blight, and bacterial spot). As a naturally occurring oligosaccharide (a carbohydrate), residues of the active ingredient are indistinguishable from other naturally occurring plant oligosaccharides. In addition to the extensive history of consumption of β-glucans—particularly laminarin in this case—without documented toxicological effects, the data submitted to the Agency, in conjunction with and in support of this tolerance exemption, confirm that laminarin is virtually nontoxic and poses no dietary risks to humans.

Because laminarin is considered "toxicologically innocuous," no residue studies are required to support a tolerance exemption. However, laminarin's low toxicity profile notwithstanding, another justification for this exemption from the requirement of a tolerance is the unlikelihood of residues for this biochemical pesticide in or on food. Laminarin is intended for application as a systemic acquired resistance (SAR) inducer—a preventative mode of action. As such, it is applied early in a crop's life cycle—in its growing stages—to help build immunity to disease organisms such as mold and bacterial infection. Furthermore, as a biochemical, it is prone to biodegrade rapidly. Data indicate that the active ingredient is more than 65% biodegraded after two weeks (Master Record Identification Number (MRID No.) 472649–54). Calculations indicate that it would be fully biodegraded long before any consumption would occur because the most likely final application of the pesticide would occur early in the growing season for plants treated with

this pesticide. Accordingly, no exposures beyond background levels are expected.

Summaries of the toxicological data submitted in support of this exemption from the requirement of a tolerance follow:

A. Acute Toxicity

Acute toxicity studies, submitted to support the registration of the end-use product containing laminarin, confirm a low toxicity profile and buttress the finding that this active ingredient poses no significant human health risk with regard to new food uses. Altogether, the acute toxicity data show virtual nontoxicity for all routes of exposure and suggest that any dietary risks associated with this carbohydrate would be negligible.

1. The acute oral median lethal doses (LD_{50}s) in rats were greater than 2,000 milligrams per kilogram (mg/kg) and confirmed negligible toxicity through the oral route. There were no observed toxicological effects on the test subjects in either of the two acute oral studies submitted (MRID Nos. 472649–30 and 472649–73). Laminarin is Toxicity Category III for acute oral toxicity.

2. The acute dermal median lethal dose (LD_{50}) in rats was greater than 5,000 mg/kg. These data substantiated laminarin's relative dermal nontoxicity to the general public (MRID Nos. 472649–31 and 472649–74). Laminarin is Toxicity Category IV for acute dermal toxicity.

3. The acute inhalation median lethal concentration (LC_{50}) was greater than 1.02 milligrams per liter (mg/L) in rats and showed no significant inhalation toxicity (MRID No. 472649–32). Laminarin is Toxicity Category III for acute inhalation toxicity.

4. A skin irritation study on rabbits indicated that laminarin was not irritating to the skin (MRID No. 472649–34). Laminarin is Toxicity Category IV for dermal irritiation.

5. Data indicated laminarin is not a dermal sensitizer (MRID Nos. 472649–35 and 472649–78).

Data indicate that laminarin is not acutely toxic. No toxic endpoints were established in any of the acute toxicity studies, and no significant toxicological effects were observed in any of the acute toxicity studies.

B. Mutagenicity

Three mutagenicity studies, using laminarin as the test substance, were performed. These studies are sufficient to confirm that there are no expected dietary or non-occupational risks of mutagenicity with regard to new food uses.

1. The Reverse Mutation Assay (MRID No. 472649–42) showed that laminarin did not induce mutant colonies relative to control groups.

2. The *In vitro* Mammalian Cells in Culture Assay (MRID No. 472649–43) demonstrated that laminarin did not damage chromosomes or the mitotic apparatus of bone marrow cells.

3. A Bone Marrow Micronucleus Assay (MRID No. 472649–44) indicated that no toxicity was noted in either sex at any dose up to the limit dose of 2,000 mg/kg.

C. Subchronic Toxicity

Based on its biodegradation properties, residues of laminarin are not expected to result in significant dietary exposure beyond the levels expected in background dietary exposures. Nonetheless, three subchronic oral toxicity studies satisfied the data requirements for subchronic toxicity and indicated that laminarin has no subchronic toxicological effect.

1. A 28–day Oral Toxicity Study (MRID No. 472649–37) found no toxicological effects regarding mortality, clinical observations, neurotoxicity assessment, body weight, food consumption, hematology, clinical chemistry, organ weights, and macroscopic or microscopic observations. The no observable effect level (NOEL) was determined to be 1,000 milligrams per kilogram per day (mg/kg/day).

2. A 90–day Oral Toxicity Study (MRID No. 472649–38) found no statistical difference in hematology, clinical chemistry, or urinalysis between test subjects and the control. The NOAEL was determined to be 1,000 mg/kg/day.

3. Another 90–day Oral Toxicity Study (MRID No. 472649–39) also found no statistical difference in hematology, clinical chemistry, or urinalysis between test subjects and the control. The NOAEL was again determined to be 1,000 mg/kg/day.

D. Developmental Toxicity

The data submitted to the Agency demonstrate a clear lack of developmental toxicity and supports the Agency's conclusion that there is no risk of developmental toxicity associated with new food uses. Data submitted to the Agency satisfy the data requirements for developmental toxicity and indicate that laminarin poses negligible risk with regard to developmental toxicity.

1. A Prenatal Developmental Toxicity Study (MRID No. 472649–40) found no significant treatment-related reproductive effects or fetal abnormalities and established a no observable adverse effect level (NOAEL) of 1,000 mg/kg/day.

2. A second Prenatal Developmental Toxicity Study (MRID No. 472649–41) also found no significant treatment-related reproductive effects or fetal abnormalities and confirmed a NOAEL of 1,000 mg/kg/day.

E. Effects on Endocrine Systems

There is no available evidence demonstrating that laminarin is an endocrine disruptor in humans. As a result, the Agency is not requiring information on the endocrine effects of laminarin at this time. However, the Endocrine Disruption Screening Program (EDSP) has established a protocol, which guides the Agency in selecting suspect ingredients for review, and the Agency reserves the right to require new information should the program require it. Presently, based on the lack of exposure and the negligible toxicity profile of laminarin, no adverse effects to the endocrine are known or expected. Overall, the lack of evidence of endocrine disruption is consistent with laminarin's low toxicity profile and supports this exemption from the requirement of a tolerance.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

Because of laminarin's ability to biodegrade relatively quickly and the typical time during plant growth that it will be applied, the Agency does not anticipate many residues being present in or on food at the time of consumption. Moreover, any residues that are present in or on food at the time of consumption as a result of pesticide use are likely to be indistinguishable from naturally occurring laminarin due to its natural occurrence and ubiquitous presence in foods and dietary supplements. Finally, the Agency believes that it is unlikely that any exposure to the residues of laminarin will result in dietary risks because of the nontoxic mode of action as a SAR inducer and the pesticide's negligible toxicity profile.

1. *Food.* Exposure to residues of laminarin on foods is expected to be negligible. Data submitted to the Agency

show that laminarin is 65% to 71% biodegraded within two weeks, and that it hydrolyzes very rapidly into glucose. Because applications necessarily occur early in the growing season (due to its mode of action as a SAR inducer), and given its short-lived presence on crops, no significant pesticidal residues are anticipated for harvested foods. However, in the event of exposure to residues of laminarin, no dietary risks are anticipated. As described in Unit III., acute, subchronic, mutagenic and developmental studies support its nontoxic profile. Furthermore, it is already present in foods without any known detrimental effects. Indeed, there is no information in the public literature suggesting any health issues to either animals or plants relative to this compound. Lastly, proposed rates of application of laminarin will result in substantially fewer residues in or on foods as a result of pesticide application than the quantities of laminarin already consumed in foods and those allowed in dietary supplements. In sum, no dietary exposure is expected; however, any potential dietary exposures would not be expected to pose any quantifiable risk, mainly due to laminarin's nontoxic profile.

2. *Drinking water exposure*. Residues of laminarin are not expected to be present in drinking water as applications of laminarin are made directly to terrestrial crops. Laminarin residues are not expected to percolate through the soil because residues are not expected to persist beyond the time it would typically take for any residues to percolate into the groundwater. In the event of errant spray drift or extraordinary rainfall, laminarin will not persist in water due to its rapid hydrolyzation into glucose. Moreover, given laminarin's nontoxic profile as described in Unit III., risks from miniscule aquatic exposure would be negligible. Altogether, drinking water exposure is not expected to pose any quantifiable risk due to both a lack of residues and the nontoxicity of laminarin.

B. Other Non-Occupational Exposure

Non-occupational exposure is not expected because lamarin is not approved for residential uses. The active ingredient is applied directly to commodities and degrades rapidly. Furthermore, the Agency notes that health risks are not expected from any pesticidal exposure to this active ingredient, no matter the circumstances. An August 2009 Agency risk assessment of laminarin clearly establishes that even prolonged and regular occupational exposures, which are associated with this active ingredient, pose negligible risks. Laminarin is characterized by its biodegradability, low toxicity profile, nontoxic, SAR-inducing mode of action, and demonstrable lack of dietary effects.

1. *Dermal exposure*. Non-occupational dermal exposures to laminarin are expected to be negligible because of its directed agricultural use. Even in the event of dermal exposure to residues, the nontoxic profile of laminarin (as described in Unit III.) is not expected to result in any risks through this route of exposure.

2. *Inhalation exposure*. Non-occupational inhalation exposures are not expected to result from the agricultural uses of laminarin. Any inhalation exposure associated with this new agricultural use pattern is expected to be occupational in nature.

V. Cumulative Effects

Pursuant to FFDCA section 408(b)(2)(D)(v), EPA has considered available information concerning the cumulative effects of exposure to laminarin residues and other substances that have a common mechanism of toxicity. These considerations include the possible cumulative effects of such residues on infants and children. Because laminarin operates through a nontoxic mode of action, there is no common mechanism of toxicity between this and any other substances; therefore, this provision does not apply. Nevertheless, given that no exposure to residues are expected when applications are made in accordance with EPA-approved labeling and good agricultural practices, and laminarin has a long history of dietary consumption without incident, the Agency concludes that there is no reason to anticipate cumulative effects from the residues of this active ingredient with other related pesticides.

VI. Determination of Safety for U.S. Population, Infants and Children

Health risks to humans, including infants and children, are considered negligible with regard to the pesticidal use of laminarin. As illustrated in Unit III., acute toxicity studies indicate that laminarin has negligible toxicity. It is ubiquitous in nature and present in fruits and vegetables. To date, there is no history of toxicological incident involving its consumption and its use in food supplements is already allowed by the United States Food and Drug Administration. Of equal note, little to no exposure to the residues of laminarin is expected. Pesticidal applications are applied directly to agricultural crops, and data suggest that residues are not expected beyond the time of harvest. Accordingly, little to no dietary exposure is expected. As such, the Agency has determined that this food use of laminarin poses no foreseeable risks to human health or the environment. Thus, there is a reasonable certainty of no harm to the general U.S. population, including infants and children, from exposure to this active ingredient.

1. *U.S. population*. The Agency has determined that there is a reasonable certainty that no harm will result from aggregate exposure to residues of laminarin to the U.S. population. This includes all anticipated dietary exposures and other non-occupational exposures for which there is reliable information. The Agency arrived at this conclusion based on the low levels of mammalian dietary toxicity associated with laminarin, the natural ubiquity of laminarin in foodstuffs, and information suggesting that the pesticidal use of laminarin will not result in a significant, if any, exposure. For these reasons, the Agency has determined that laminarin residues in and on all food commodities will be safe, and that there is a reasonable certainty that no harm will result from aggregate exposure to residues of laminarin.

2. *Infants and children*. FFDCA section 408(b)(2)(C) provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database unless the EPA determines that a different margin of exposure (safety) will be safe for infants and children. Margins of exposure (safety), which are often referred to as uncertainty factors, are incorporated into EPA risk assessments either directly or through the use of a margin of exposure analysis, or by using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk.

Based on all the information evaluated for laminarin, the Agency concludes that there are no threshold effects of concern and, as a result, the provision requiring an additional margin of safety does not apply.

VII. Other Considerations

A. Endocrine Disruptors

There is no evidence, at this time, that suggests that laminarin will compromise the endocrine system, function in a manner similar to any known hormone, or act as an endocrine disruptor.

B. Analytical Method(s)

Through this action, the Agency proposes an exemption from the requirement of a tolerance of laminarin when used on food commodities, without any numerical limitations for residues. EPA has determined that residues resulting from the pesticidal use of laminarin are unlikely and that there are no significant toxicity concerns in the event that residues of the active ingredient are present. As a result, the Agency has concluded that an analytical method is not required for enforcement purposes for laminarin.

C. Codex Maximum Residue Level

There are no codex maximum residue levels established for residues of laminarin.

VIII. Conclusions

Based on the data submitted to support this tolerance exemption, and other information available to the Agency, EPA is establishing an exemption from the tolerance requirements, pursuant to FFDCA section 408(c), for residues of laminarin in or on all food commodities.

IX. Statutory and Executive Order Reviews

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

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

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

X. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: February 15, 2010.

Steven Bradbury,

Acting Director, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Section 180.1295 is added to subpart D to read as follows:

§ 180.1295 Laminarin; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of laminarin in or on all food commodities when laminarin is applied preharvest.

[FR Doc. 2010–3672 Filed 2–23–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

EPA–HQ–OPP–2009–0569; FRL–8812–5

Nicosulfuron; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of nicosulfuron, [3-pyridinecarboxamide, 2-((((4,6-dimethoxypyrimidin-2-yl) aminocarbonyl) aminosulfonyl))-N,N-dimethyl]; in or on Bermudagrass, forage and Bermudagrass, hay. This action is in response to EPA granting crisis exemptions to the Texas Department of Agriculture and the Oklahoma Department of Agriculture under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on Bermudagrass, forage and Bermudagrass, hay. This regulation establishes maximum permissible levels for residues of nicosulfuron in Bermudagrass and hay. The time-limited tolerances expire and are revoked on December 31, 2011.

DATES: This regulation is effective February 24, 2010. Objections and