15 years to assure that the it continues to meet the FIFRA standard for registration, including compliance with any new legislation, regulations or science policy.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2004–0404. All documents in the docket are listed on the regulations.gov web site. 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 either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Vivian Prunier, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460-0001; telephone number: (703) 308-9341; e-mail address: *prunier.vivian@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. It simply announces the submission of a draft final rule to the United States Department of Agriculture (USDA) and does not otherwise affect any specific entities. This action may, however, be of particular interest to those persons who register pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or who use pesticides. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding the this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to using regulations.gov, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. What Action is EPA Taking?

Section 25(a)(2) of FIFRA requires the Administrator to provide the Secretary of Agriculture with a copy of any final regulation at least 30 days before signing it for publication in the **Federal Register**. The draft final rule is not available to the public until after it has been signed by EPA. If the Secretary comments in writing regarding the draft final rule within 15 days after receiving it, the Administrator shall include the comments of the Secretary, if requested by the Secretary, and the Administrator's response to those comments in the final rule when published in the **Federal Register**. If the Secretary does not comment in writing within 15 days after receiving the draft final rule, the Administrator may sign the final rule for publication in the **Federal Register** anytime after the 15–day period.

III. Do Any Statutory and Executive Order Reviews Apply to this Notification?

No. This document is not a rule, it is merely a notification of submission to the Secretary of Agriculture. As such, none of the regulatory assessment requirements apply to this document.

IV. Will this Notification be Subject to the Congressional Review Act?

No. This action is not a rule for purposes of the Congressional Review Act (CRA), 5 U.S.C. 804(3), and will not be submitted to Congress and the Comptroller General. EPA will submit the final rule to Congress and the Comptroller General as required by the CRA.

List of Subjects in Part 155

Environmental protection, Administrative practice and procedure, Pesticides and pests

Dated: June 2, 2006.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. E6–9077 Filed 6–13–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0303; FRL–8072–3]

Bacillus mycoides isolate J; Temporary Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the requirement of a tolerance for residues of the microbial pesticide *Bacillus mycoides* isolate J on sugar beets when applied/used to control Cercospora Leaf Spot (*Cercospora beticola*) in sugar beets. Montana Microbial Products submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting the temporary exemption from tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus mycoides* isolate J. The temporary tolerance exemption will expire on December 31, 2007.

DATES: This regulation is effective June 14, 2006. Objections and requests for hearings must be received on or before August 14, 2006, 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–2005–0303. All documents in the docket are listed in the index for the docket. 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 Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Anne Ball, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 204607–0001; telephone number: (703) 308–8717; e-mail *address:ball.anne@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 Access Electronic Copies of this Document?

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C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. 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–2005–0303 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 August 14, 2006.

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–2005–0303, 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 Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket'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 telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of January 18, 2006 (71 FR 2932–2933) (FRL–7755–9), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 5G6983) by Montana Microbial Products, 510 East Kent Avenue, Missoula MT 59801. The petition requested that 40 CFR part 180 be amended by establishing a temporary exemption from the requirement of a tolerance for residues of *Bacillus mycoides* isolate J. This notice included a summary of the petition prepared by the petitioner Montana Microbial Products. One comment was received in response to the notice of filing. The commenter objected to an exemption from the requirement of a tolerance. This commenter apparently misunderstood the nature of the product which does not contain a gene-altered substance. EPA concludes that *Bacillus mycoides* isolate J is ubiquitous in nature and for purposes of this temporary tolerance exemption, EPA has determined that it will be safe when used in agriculture.

Section 408(c)(2)(a)(i) of the 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 the 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), 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), 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 the 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 the 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.

An Acute Pulmonary Toxicity/Pathogenicity study (OPPTS 885.3150) in rats which were dosed intratracheally with *Bacillus mycoides* isolate J at 1.1 x 10^8 cfu/animal, was reviewed and found to be supplemental because a clear pattern of clearance from all organs was not demonstrated during the study's 35–day length. The test substance, however, did show a pattern of clearance in some organs. Differential heat treatment of tissue samples had suggested that most of the recovered organisms were spores. No treated animals died nor were there signs in the animals of toxicity or pathogenicity. Given the ubiquitous nature of this spore forming bacterium which is found on plants, in soil, water, air and decomposing plant tissue, along with the lack of mortality of the test animals and the absence of overt signs of toxicity or pathogenicity in the animals during the course of this pulmonary study, issuance of the Experimental Use Permit (EUP) can be justified provided there are instructions for appropriate respiratory protection for the applicators specified on the product label.

The Agency has granted the requests for waivers for the studies Primary Eye Irritation (OPPTS 870.2400) and Primary Dermal Irritation (OPPTS 870.2500). The registrant had provided the following rationales for the requests with which the EPA agrees:

1. The inert ingredient in the *Bacillus mycoides* isolate J end product is on the EPA inert list 4A as safe for food use. The combination of *Bacillus mycoides* isolate J spores with this inert would not be expected to exacerbate primary ocular and dermal irritation or infection.

2. Personnel who worked with *Bacillus mycoides* isolate J for 2 to 7 years showed no eye or dermal exposure effects.

3. Eye or dermal exposure to *Bacillus mycoides* isolate J will be limited by supervision and protective equipment. If eye or dermal exposure did, however, occur, the spores will rinse out of the eye with water or wash off the skin with soap and water because spores are hydrophilic.

4. *Bacillus mycoides* isolate J is not recorded as a human pathogen. Due to the ubiquitous presence of *Bacillus mycoides* isolate J in agricultural soils, there has been long term human exposure to *Bacillus mycoides* isolate J in crops and to residual *Bacillus mycoides* isolate J cells or spores in food crops. No toxicity or pathogenicity of *Bacillus mycoides* isolate J in humans had been reported in numerous searched citations.

In connection with the requirement for reporting Hypersensitivity Incidents (OPPTS 885.3400), the Registrant has notified the Agency that no recorded or reported adverse hypersensitivity reaction to *Bacillus mycoides* isolate J has occurred during the period of 2 years in which the substance has been handled in a laboratory setting.

As stated above, a pattern of complete clearance from all organs had not been demonstrated for the acute pulmonary toxicity/pathogenicity study (OPPTS 885.3150).The requests for waivers on the following studies are contingent on demonstrating a pattern of clearance of the test organism in the acute pulmonary toxicity/pathogenicity study, and thus the requests for waivers were not granted.

- Acute Oral Toxicity/Pathogenicity (OPPTS 885.3050)
- Acute Dermal Toxicity/Pathogenicity (OPPTS 885.3100)
- Acute Injection Toxicity/Pathogenicity (OPPTS 885.3200)
- Immune Response (OPPTS 885.3550)

However, as previously stated in this document, the test substance for the acute pulmonary toxicity/pathogenicity did show a pattern of clearance in some organs. There was no mortality of the test animals, nor were there signs in the animals of toxicity or pathogenicity caused by this ubiquitous spore-forming bacterium. The issuance of the Experimental Use Permit (EUP) can be justified provided there are instructions for appropriate respiratory protection for the applicators specified on the product label. The basis for this conclusion rests not only on the ubiquitous nature of *Bacillus mycoides* isolate J, the absence of mortality, and of overt adverse reactions in the test animals, but also on the absence of reported or cited incidents of pathogenicity or toxicity in the course of an extensive literature search. Therefore, issuance of the Experimental Use Permit (EUP) can be justified without the requirement for studies based on OPPTS 885.3050, 885.3100, 885.3200 and 885.3550, provided there are instructions for appropriate respiratory protection for the applicators specified on the product label.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of the 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

The proposed EUP is not expected to result in increased dietary exposures of *Bacillus mycoides* isolate J to the general population. The quantity of *Bacillus mycoides* isolate J applied to the beet foliage, 7.5 x 10^{11} spores/acre per application, is small compared to the natural background levels of *Bacillus mycoides* isolate J in agricultural soils which is reported to typically occur at about 10^5 spores per gram. Also, the titer of *Bacillus mycoides* isolate J applied to the foliage declines from 10^6 spores/cm^2 to between 100 and 1,000 spores/cm^2 over a 2–week period. Because the ordinary consumer encounters only the sugar produced from sugar beets, (in which the bacterium is not present), an increased dietary exposure is not foreseen.

There is, in addition, minimal to negligible risk that surface water and, thus, drinking water exposure would occur with the proposed EUP testing. The proposed test sites are at least one-half mile from the nearest surface water. When spray drift or accidental application of *Bacillus mycoides* isolate J over surface water did occur, the concentration of *Bacillus mycoides* isolate J spores in the water had been found to be very low. For example an acre dose of *Bacillus mycoides* isolate J, 7.5 x 10^{11} spores to 100 square meters of surface water 1 meter deep, would result in a concentration of 750 spores per cc of water as noted in the EPA ecological risk assessment for *Bacillus mycoides* isolate J which is based on data submitted by the Montana Microbial Products.

B. Other Non-Occupational Exposure

EPA concludes that dermal or inhalation exposure to the general population as a result of this EUP is not likely to occur, based on information submitted in pesticide tolerance petition 5G6983 indicating that the relevant EUP agricultural sites, which are located in the Red River Valley of North Dakota and Minnesota and in eastern Montana, and which will not exceed 956 acres, are not accessible to individuals other than those conducting this EUP program.

V. Cumulative Effects

Pursuant to FFDCA section 408(b)(2)(D)(v), EPA has considered available information on the cumulative effects of such residues and other substances that have a common mechanism of toxicity. These considerations included the cumulative effects on infants and children of such residues and other substances with a

common method of toxicity. Because there is no indication of mammalian toxicity or pathogenicity resulting from *Bacillus mycoides* isolate J, we conclude that there are no cumulative effects for this bacterium.

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

1. *U. S. population*. The Agency has determined that there is reasonable certainty that no harm will result to the U. S. population from exposure to residues of *Bacillus mycoides* isolate J in connection with the testing for the proposed EUP program. This determination includes all anticipated dietary exposures and other non-occupational exposures for which there is reliable information. Oral ingestion of the organism is unlikely because consumers will purchase only the sugar produced from the sugar beets. This product is not anticipated to contain any spores or cells derived from the treatment of the foliage of the sugar beets. Data submitted in a pulmonary toxicity/pathogenicity study revealed no signs of overt toxicity or pathogenicity in the test animals. The results of an extensive literature search, which included numerous citations of the test organism, yielded no reports of its pathogenicity for mammals. There will be no access to persons other than participants in the program to the test sites for the EUP. The participants in the EUP program are required to wear appropriate respiratory protection.

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) also provides that EPA shall apply an additional tenfold margin of safety, also referred to as margins of exposure (MOEs), for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different MOE will be safe for infants and children.

In this instance, based on all available information, the Agency concludes that there is a finding of no toxicity for *Bacillus mycoides* isolate J. Thus there are no threshhold effects of concern to infants and children when the microbial is used as a fungicide. Accordingly, the Agency concludes that the additional MOE is not necessary to protect infants and children, and that not adding any additional MOE will be safe for infants and children.

VII. Other Considerations

A. Endocrine Disruptors

The pesticidal active ingredient, *Bacillus mycoides* isolate J is not known to exert an influence on the endocrine system.

B. Analytical Method(s)

Analytic methods for *Bacillus mycoides* isolate J that are sufficient to justify the issuance of an Experimental Use Permit (EUP) have been submitted to the Agency.

C. Codex Maximum Residue Level

No codex maximum residue levels exist for the microbial *Bacillus mycoides* isolate J.

VIII. Statutory and Executive Order Reviews

This final rule establishes a temporary exemption from the tolerance requirement under section 408(d) of the 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 rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the

distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: June 6, 2006.

James Jones,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART180—[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 180.1269 is added to subpart D to read as follows:

§ 180.1269 Bacillus mycoides Isolate J on sugar beets: exemption from the requirement of a tolerance.

Bacillus mycoides isolate J is temporarily exempt from the requirement of a tolerance when used as a fungicide for control of Cercospora Leaf Spot (*Cercospora beticola*) on sugar beets. This temporary exemption from the requirement of a tolerance expires and is revoked on December 31, 2007.

[FR Doc. E6–9282 Filed 6–13–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0299; FRL–8069–6]

Potassium Silicate; 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 potassium silicate in or on all food commodities when applied/used as a fungicide, insecticide or miticide so long as the potassium silicate is not applied at rates exceeding 1% by weight in aqueous solution and when used in accordance with good agricultural practices. PQ Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of potassium silicate.

DATES: This regulation is effective June 14, 2006. Objections and requests for hearings must be received on or before August 14, 2006, 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–2006–0299. All documents in the docket are listed in the index for the docket. 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 Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Docket is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Carol E. Frazer, Biopesticides and Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8810; e-mail address: *frazer.carol@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.**

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C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions