code_of_federal_regulations/ibr_locations.html.

Issued in Renton, Washington, on May 7, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–11760 Filed 5–20–10; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0663; FRL–8824–9]

Silver Nitrate; 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 silver nitrate (CAS Reg. No. 7761–88–8) when used as an inert ingredient under 40 CFR 180.910 as stabilizer at a maximum of 0.06% by weight in pesticide formulations as post–harvest treatment for potatoes to control sprouting. Wagner Regulatory Associates on behalf of Pimi Agro CleanTech, Ltd. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of silver nitrate.

DATES: This regulation is effective May 21, 2010. Objections and requests for hearings must be received on or before July 20, 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–2009–0663. 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: Alganesh Debesai, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8353; e-mail address: *debesai.alganesh@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 cite 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, and 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–2009–0663 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 [*date 60 days after date of publication in the* **Federal Register**]. Addresses for mail and hand 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 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–2009–0663 by one 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. Petition for Exemption

In the **Federal Register** of October 7, 2009 (74 FR 5159) (FRL–8792–7), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP 9E7584) by Wagner Regulatory Associates on behalf of Pimi Agro CleanTech, Ltd., P.O.Box. 117, Hutzot Alonim 30049, Israel. The petition requested that 40 CFR 180.910 be amended establishing an exemption from the requirement of a tolerance for residues of silver nitrate (CAS Reg. No. 7761–88–8) when used as an inert ingredient stabilizer at 0.06% by weight in pesticide formulations applied to

potatoes as a post-harvest treatment to control sprouting. That notice referenced a summary of the petition prepared by Wagner Regulatory Associates on behalf of Pimi Agro CleanTech, the petitioner, which is available in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply no toxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

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 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. . . ."

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with section 408(c)(2)(A) of FFDCA, and the factors specified in FFDCA section 408(c)(2)(B), 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 silver nitrate including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with silver nitrate follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by silver nitrate are discussed in this unit.

The following provides a brief summary of the risk assessment and conclusions for the Agency's review of silver nitrate. The Agency's full decision document for this action is available in the Agency's electronic docket (regulations.gov) under the docket number EPA–HQ–OPP–2009–0663.

Silver nitrate is a water soluble inorganic salt that readily dissociates into the silver cation and the nitrate/nitrite anion. Nitrate and nitrite are naturally occurring inorganic ions which are part of the nitrogen cycle. Nitrate is a natural constituent of soil and vegetation. Nitrate is also a normal metabolite in mammals. Nitrate in soil, ground water and surface water are derived mainly from mineralization of soil organic matter as well as from application of mineral fertilizers.

The EPA IRIS lists an oral RfD for chronic noncarcinogenic health effects for nitrate (as nitrate nitrogen) based on early clinical signs of methemoglobinemia in excess of 10% (0-3 months old infant's formula).

Silver ions and preparations containing silver in an ionic state have been used for over a century for medicinal and bactericidal purposes. Because of its bactericidal properties, silver has been used as a topical treatment for burns, as a treatment for venereal diseases, as an ingredient in cosmetic formulation, in the sanitation of swimming pools and hot tubs/spas, and cleansing of hard surfaces in various food handling. Silver has also been used in dentistry (as amalgams and as an ingredient in mouth washes), in acupuncture, jewelry making, and photography. Silver can be found in electroplating as well as in paints and in water purification systems.

The toxicity of silver is well understood based on epidemiological data from humans, toxicology data in animals, and documented information on the metabolism of silver in mammalian species. These studies show that the effect of concern for silver is argyria, a bluish discoloration of the skin. Argyria, while a permanent condition, is a cosmetic condition. The function of the skin as an organ is not compromised and the resulting discoloration is not associated with systemic toxicity. Information regarding the toxicity of silver is discussed in detail in the recent rulemaking establishing an exemption from tolerance for silver used as a surface sanitizing solution in the **Federal Register** published on June 10, 2009 (74 FR 27447; FRL–8412–1).

B. Regulatory Levels

The EPA's IRIS lists an oral RfD for chronic noncarcinogenic health effects for nitrate (as nitrate nitrogen) of 1.6 miligrams/kilogram/day (mg/kg/day). This RfD is derived from human epidemiological surveys using a no observed adverse effect level (NOAEL) of 10 mg nitrate-nitrogen/L (equivalent to 1.6 mg/kg/day) and lowest observable adverse effect level (LOAEL) of 11-20 mg nitrate-nitrogen/L (equivalent to 1.8-3.2 mg/kg/day) based on early clinical signs of methemoglobinemia in excess of 10% (0-3 months old infant's formula).

Safe exposure levels for silver have been established by several regulatory Agencies including FDA, OSHA and other offices within EPA based on the common endpoint argyria and using the same human studies. Argyria occurs only after chronic exposure. Both the

Secondary Maximum Contamination Level (SMCL) reported by the EPA's Office of Water and the oral RfD reported under the EPA's IRIS were determined based on a human biomonitoring study. For the oral exposure route, the Agency is relying on the drinking water SMCL of 0.1 mg/L (0.003 mg/kg/day) based on skin discoloration and graying of the whites of eyes (argyria) and using a safety factor of 3X. The Agency applied an additional 3x uncertainty factor to further address the lack of a NOAEL in the study on which this assessment and all regulatory advisories are set. Thus, a composite database factor of 10X is being applied yielding a chronic RfD of 0.001 mg/kg/day. This composite factor of 10X should be sufficient for providing protection from the non-toxic effects which may result from chronic oral exposure to silver.

Chronic RfD = 0.003 mg/kg/day ÷ 3 = 0.001 mg/kg/day

A full discussion of the derivation of the RfD is contained in the previously-mentioned tolerance exemption action. (June 10, 2009).

The Agency has concluded that the silver RfD of 0.001 mg/kg/day would be protective of both the toxic effects of silver and nitrate because the silver SMCL is nearly 1,000X below the RfD calculated for nitrate (1.6 mg/kg/day). Therefore, given that silver and nitrate exposure would be roughly equivalent, a separate human health risk assessment for nitrate is not necessary.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to silver nitrate, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from silver nitrate in food as follows:

Residue analysis of whole tuber washed potato samples treated with silver nitrate showed 0.0085 ppm (equivalent to 0.0085 mg/kg) of silver.

Silver nitrate dietary exposure assessment was conducted using the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM-FCID™), Version 2.00. No drinking water exposure assessment was included in the DEEM run since no outdoor or potable human drinking water system uses for this proposed use of silver nitrate. The residues value of 0.0085 ppm (equivalent to 0.0085 mg/kg/day) of silver nitrate and an empirical processing factor of 6.5 for dry potatoes were used in this assessment. However, default processing factors were used for potato, tuber with or without peel. The use of the default processing factors for potato, tuber overestimates exposure to these commodities.

Recently, EPA assessed chronic dietary exposure from the use of silver as a food contact sanitizer. (June 10, 2009). The dietary assessment was only completed for chronic routes end point of concern because the end point of concern that has been identified is based on argyria, one that occurs only after chronic exposure. For dietary exposures from this product being used on countertops, the Incidental Dietary Residential Exposure Assessment Model, (IDREAM™) incorporates consumption data from United State Department of Agriculture (USDA) Continuing Surveys of Food Intakes by Individuals (CSFII), 1994–1996 and 1998. The 1994–1996, 98 data are based on the reported consumption of more than 20,000 individuals over two non-consecutive survey days.

2. *Dietary exposure from drinking water* There are no outdoor or potable human drinking water system uses for this proposed use of silver. In addition, the uses identified as indoor hard surface applications will result in minimal, if any, runoff of silver into the surface water. The use of silver as a food contact surface sanitizer will result in minimal, if any, runoff of silver into the surface water. This use will result in an insignificant contribution to drinking water exposures. In addition to sanitization, silver is registered as an active ingredient in water filters. The bacteriostatic water filters are impregnated with silver and may result in residues in the drinking water supply. However, the levels of available residues resulting from impregnated water filters are much less when in comparison to the amount of residues that will be available for intake when silver-containing liquid concentrates are used. As a result, any drinking water exposures from the new use of silver are assumed to be negligible. Additionally, any drinking water risks from impregnated filters are assumed to be represented by the dietary risks resulting from hard surface sanitization. The Agency believes that an assessment of any potential risks resulting from silver in drinking water is not warranted at this time.

Therefore, based on the proposed uses of silver, the Agency believes that risks resulting from silver in drinking water will be negligible and as assessment is not warranted at this time.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

The residential exposure assessment considers all potential non-occupational pesticide exposure, other than exposure due to residues in food or in drinking water. Exposures may occur during and after application on hard surfaces (e.g., floors). Each route of exposure (incidental oral, dermal, inhalation) is considered where appropriate. The risks to handlers are quantitatively assessed based on the nature of the chemical. There are no adverse toxicological consequences (systemic or irritation) resulting from contact with silver other than skin discoloration. Residential exposures are short-term (<30 days) and intermediate-term (1-6 months) in nature. As supported in the toxicological discussion, however, silver ion produces only cosmetic effects and only as a result of chronic exposures. In addition, incidental ingestion (hand to mouth behavior of a child on a treated floor) as well as dermal exposures resulting from a child contacting a freshly cleaned floor is considered short-term in duration.

Based on the fact that silver will exist in the ionic form, which does not volatilize, any post application inhalation exposures to vapors are expected to be negligible. Essentially, there are no toxicological consequences (systematic or irritation) resulting from contact with silver other than discoloration.

Other non-pesticidal industrial uses of silver include, but are not limited to, photography, cosmetics, sunscreens, manufacture of inks and dyes, mirror production, and in jewelry. All these uses may result in exposures via the dermal route, which over a chronic duration, may cause skin discoloration. However, dermal exposures resulting from these uses are not appropriate to include in this aggregate exposure assessment. Systemic uptake and distribution of silver does not occur via the dermal route. The specific uses of silver that were considered for this aggregate assessment include the cleansing of hard surfaces in various food handling, institutional, medical and residential premises.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, 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 has not found silver nitrate to share a common mechanism of toxicity with any other substances, and silver nitrate does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that silver nitrate does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity* There is extensive data and analysis on silver's toxicity in the historical data/literature and regulatory advisories established by other Federal Agencies, which do not indicate an increased susceptibility of children to the toxic effects of silver. A National Toxicology Program (NTP) developmental toxicity study concluded that the NOAEL recorded for developmental toxicity in rats receiving gavages doses of silver acetate was greater than 100 mg/kg/day when the test material was administered on gestation day 6 through 19. No increase in susceptibility was apparent in this study. Furthermore, silver nitrate has been used for decades to treat neonatal conjunctivitis. Finally, there is no reason to believe that the effects that are observed following the administration of silver would warrant additional safety factors for children. The skin is the target organ and deposition of silver should not be age dependent. Moreover, because EPA believes that the available biomonitoring studies adequately characterize variability in human sensitivity, EPA is not applying an intra-species uncertainty factor in deriving the chronic RfD for silver.

3. *Conclusion*. Although EPA is not applying an inter-species uncertainty factor (because of reliance on human data) or an intra-species uncertainty factor (because human sensitivity has been adequately characterized), EPA is retaining the 10X FQPA safety factor in assessing oral risk to address the fact that the dose used to determine the chronic RfD showed effects from silver (argyria). In making its determination regarding the appropriate safety factors for evaluating the risk of silver, EPA took into account that argyria is not a toxic effect, there is no evidence of increased sensitivity in the young from exposure to silver, and the exposure assessment for silver is very conservative.

E. Aggregate Risks and Determination of Safety

Determination of safety section. EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-term, intermediate-term, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate point of departures (PODs) to ensure that an adequate margin of exposure (MOE) exists.

1. *Acute risk*. An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, silver nitrate is not expected to pose an acute risk.

2. *Chronic risk*. A chronic aggregate risk assessment takes into account exposure estimates from chronic dietary consumption of food and from the use of silver as a food contact sanitizer. Using the exposure assumptions described in this unit for chronic exposure and the use limitations of not more than 0.06% by weight in pesticide formulations, the chronic dietary exposure from food to silver nitrate is 20% of the cPAD for the U.S. population and 63.8.6% of the cPAD for children 1-2 years old, the most highly exposed population subgroup.

3. *Short-term risk*. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Because no short-term adverse effect was identified, silver nitrate is not expected to pose a short-term risk.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Because no intermediate-term adverse effect was identified, silver nitrate is not expected to pose an intermediate-term risk.

5. *Aggregate cancer risk for U.S. population*. The Agency has not identified any concerns for carcinogenicity relating to silver nitrate.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to silver nitrate residues.

V. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residue of silver nitrate in or on any food commodities. EPA is establishing a limitation on the amount of silver nitrate that may be used in pesticide formulations. That limitation will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq*. EPA will not register any pesticide for sale or distribution that contains greater than 0.06% of silver nitrate by weight in the pesticide formulation.

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 U.N. 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.

Option 1: If there is NO relevant international standard, use this:

The Agency is not aware of any country requiring a tolerance for silver nitrate nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180. 910 for silver nitrate 7761–88–8) when used as an inert -ingredient (stabilizer at no more than 0.06% by weight) in pesticide formulations applied to potatoes as a post-harvest treatment to control sprouting.

VII. 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).

VIII. 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: May 12, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section §180.910, the table is amended by adding alphabetically the following inert ingredient to read as follows:

§ 180.910 Inert ingredients used pre-harvest and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* *	* *	*
Silver Nitrate (Cas Reg. No. 7761–88–8)	For use on potatoes as post-harvest treatment to control sprouting at no more than 0.06% by weight in pesticide formulations	stabilizer
* *	* *	*

[FR Doc. 2010–12116 Filed 5–20–10; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2010–0003; Internal Agency Docket No. FEMA–8131]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date ("Susp.")