Manufacturing Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Susan Fairchild, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Metals and Minerals Group (D–243–02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5167; fax number: (919) 541–5600; e-mail address: *fairchild.susan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

Categories and entities potentially affected by this action include those which manufacture refractory products. Regulated categories and entities include:

Category	NAICS code [1]	Examples of regulated entities
Industry	327124 327125	Clay refractory manufacturing plants and nonclay refractory manufacturing plants.
Federal government		Not affected.
State/local/tribal government		Not affected.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in 40 CFR 63.9782 of subpart SSSSS (NESHAP for Refractory Products Manufacturing). If you have questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in 40 CFR 63.13 of subpart A (General Provisions).

II. Background Information

On February 13, 2006, we published a direct final rule (71 FR 7415) and parallel proposal (71 FR 7494) amending the NESHAP for Refractory Products Manufacturing. The amendments would have clarified the testing and monitoring requirements of the NESHAP, made the NESHAP consistent with recent changes to the General Provisions (40 CFR part 63, subpart A), and made certain technical corrections to the rule. The amendments would have clarified that sources complying with the total hydrocarbon (THC) percent reduction emission limit could choose to meet the alternative concentration emission limit if they turn back the control device after it is no longer needed (*i.e.*, after the concentration of THC in the exhaust gas is at or below the THC concentration emissions limit).

The preamble to the direct final rule amendments stated that if we received adverse comment by March 15, 2006, we would publish a timely notice of withdrawal in the **Federal Register**. EPA received adverse comment on the direct final rule amendments. Accordingly, we are withdrawing the direct final rule amendments as of April 14, 2006. EPA will take final action on the parallel proposal after considering the comments received. As stated in the parallel proposal, EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 7, 2006.

William L. Wehrum,

Acting Assistant Administrator for Air and Radiation.

PART 63—[AMENDED]

■ Accordingly, the amendments to the rule published in the **Federal Register** on February 13, 2006 (71 FR 7415) on pages 7415–7441 are withdrawn as of April 14, 2006.

[FR Doc. 06–3545 Filed 4–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2002–0241; FRL–8063–5]

Sodium Metasilicate; Amendment to an Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an amendment to an exemption from the requirement of a tolerance for residues of sodium metasilicate on all food commodities when applied/used as an insecticide or fungicide to control or suppress leafhoppers and powdery mildew in accordance with approved label rates and good agricultural practice. A petition was submitted to EPA on behalf of Environmentally Safe Systems, Inc. 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 sodium metasilicate.

DATES: This regulation is effective April 14, 2006. Objections and requests for hearings must be received on or before June 13, 2006.

ADDRESSES: To submit a written objection or hearing request follow the detailed instructions as provided in Unit IX. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under Docket identification (ID) number EPA–HQ–OPP–2002–0241. All documents are listed on the www.regulations.gov web site. (EDOCKET, EPA's electronic public docket and comment system was replaced on November 25, 2005, by an enhanced federal-wide electronic docket management and comment system located at *http://www.regulations.gov/*. Follow the on-line instructions.) Although listed in the index, some information is not publicly available, i.e., 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 electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This 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: Raderrio Wilkins, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–1259; e-mail address:*wilkins.raderrio@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

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 and Other Related Information?

In addition to using EDOCKET (*http://www.epa.gov/edocket/*), youmay access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

II. Background and Statutory Findings

In the **Federal Register** of December 29, 2004 (69 FR 78017) (FRL–7193–8), 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 2E6381) by Interregional Research Project Number (IR-4), New Jersey Agricultural Experiment Station, Technology Center of New Jersey, 681 U.S. Highway 1 South, North Brunswick, NJ 08902–3390, on behalf of Environmentally Safe Systems, Inc., P.O. Box 1574 Sanat Ynez, CA 93460. ChemReg International, LLC, 1990 Old Bridge Road, Suite 201, Lake Ridge, VA 22192, is the current authorized agent acting on behalf of Environmentally Safe Systems, Inc. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of atolerance for residues of sodium metasilicate. This notice included a summary of the petition prepared by the petitioner ChemReg International, LLC on behalf of Environmentally Safe Systems, Inc. There were no comments received in response to the notice of filing.

Since the IR-4's submission of this petition, EPA has promulgated a regulation establishing an exemption from the requirement of a tolerance for sodium metasilicate at 40 CFR 180.1237. That exemption establishes an exemption from the requirement of a tolerance for residues of sodium metasilicate ''when used as plant desiccants, so long as the metasilicate does not exceed 4% by weight in aqueous solution.'' Because IR-4's petition requested an exemption from the requirement for a tolerance for sodium metasilicate when used as an insecticide and fungicide, the current exemption does not cover the petitioned uses and must be amended to include them.

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.

Sodium metasilicate is prepared by fusing sand (silicon dioxide,SiO_2) and soda ash ($NaCO_3$). Sand or silicon dioxide is comprised of silica, which is one of the most abundant oxide materials in the earth's crust. Silica occurs commonly in nature as sandstone, silica sand or quartzite. It is the starting material for the production of silicate glasses and ceramics. It can exist in an amorphous form (vitreous silica) or in a variety of crystalline forms. Often it will occur as a non-crystalline oxidation product on the surface of silicon or silicon compounds. Silicon is widely distributed in the environment, and is present in the form of sand on all beaches.

Sodium metasilicate is a corrosive alkaline material commercially available in three forms (anhydrous, pentahydrate or nonahydrate containing 0, 5 or 9 water molecules in its crystal structures, respectively). In its pure form sodium metasilicate is corrosive to skin and eyes, and is a severe irritant to the upper respiratory tract. It may cause burns of the mouth, throat and stomach. This tolerance exemption covers all three forms of sodium metasilicate because all three forms are soluble in water, and thus in aqueous dilutions at 2.41%, which is the concentration proposed for pesticide products used as insecticides and fungicides, the toxicity would be the same. For this reason, unless otherwise specified in this document, whenever the term sodium metasilicate is used in this document, it refers to all three forms of sodium metasilicate.

Sodium metasilicate is widely used in cosmetics, hair and skin products, detergents, and a variety of cleaning products. It is also an active ingredient

in insecticides, fungicides and antimicrobial pesticides at concentrations up to 4%, and its primary modes of action include abrasion and dessication of the targeted pests. The pentahydrate ($Na_2SiO_35H_20$) is classified by the Food and Drug Administration (FDA) as ''Generally Recognized as Safe'' (GRAS, indirect food ingredient) for use in washing mixtures for fruits and vegetables, in sanitizing solutions on food-contact surfaces, and other uses. Residues of the pentahydrate form, when used in fruit and vegetable washes, are expected to be orders of magnitude less than the estimated daily dietary consumption of 20–30 milligrams (mg) silica from natural sources and drinking water. Silica (also known as silicon dioxide, SiO_2, or silicon) is a degradation product of the pentahydrate form of sodium metasilicate, which is neutralized by stomach acid after oral ingestion to form silicic acid ($H2SiO_3$). Silicic acid is readily absorbed and distributed throughout the body where it may be further metabolized to silicon dioxide. Silicon is incorporated into tissues as an essential trace element, and is especially important in bone growth and development in poultry and livestock. Silica is also used as a food additive, primarily as a flow agent in powdered foods, or to absorb water.

The toxicological data to support the request to amend the exemption from the requirement of a tolerance for sodium metasilicate is comprised of published information on all three forms of sodium metasilicate and related silicon-containing compounds. Silicon dioxide is the focus of many of the studies considered by the Agency since it is a metabolite of sodium metasilicate pentahydrate after oral ingestion and is an essential trace element in the diet.

1. Acute oral toxicity data (MRID 46050902) for the anhydrous form of sodium metasilicate in rats was classified Toxicity Category III, due to gastrointestinal irritation and corrosion at doses great than or equal to 1,000 mg of the active ingredient per kilogram (kg) body weight. The alkalinity (pH of 12) of the test material would be expected to cause these gastrointestinal effects and is consistent with the known irritation and corrosivity of high doses (such as the level tested in this study) for sodium metasilicate. There were no effects noted in a second acute oral toxicity study (OPPTS Harmonized Guideline 870.1100; MRID 46202005) with rats given 5,000 mg of a test material containing only 2.41% sodium metasilicate (approximately 120 mg) per kg body weight. The test material is classified as Toxicity Category IV for acute oral toxicity, and demonstrates that a dilution of the active ingredient to a level that is comparable to concentration of sodium metasilicate required in the proposed pesticidal uses for control of leafhoppers and powdery mildew (eliminates the potential of the active ingredient to cause acute toxic effects).

2. Environmentally Safe Systems, Inc. requested waivers based on submitted reviews of publicly available scientific literature (MRID 46050902) for the following required studies on the technical grade of the active ingredient:

i. *OPP Guideline 152.17--Genotoxicity*. Genetic toxicity assays considered from the submitted review of published scientific literature included microbial point mutation assays with sodium metasilicate, silicic acid, and silicon dioxide. None of these substances demonstrated mutagenic activity in three bacterial test species.

ii. *OPP Guideline 152.20--Subchronic, 90–day feeding*. Subchronic toxicity data summarized from published literature on silicon dioxide demonstrated adverse effects at high oral doses in rats, mice and dogs without determining no observed adverse effect levels (NOAEL) in these test species. An 800 mg/kg body weight/day dose level administered orally to dogs for 6 months was reported to have kidney effects, which were not observed after only 4 weeks. These results indicate that amounts ofSiO_2 exceeding the natural demand for the essential trace element silicon are excreted via the kidneys and can have effects there after an extended period of exposure. Therefore, longer exposures to repeated, high oral doses increase the potential for adverse effects in this test species. The report on the effects in dogs also indicated that kidney function was not adversely affected by the microscopic changes noted in the organ.

Chronic toxicity. The summary review of the published literature indicated that silicon dioxide (SiO_2) was fed to rats and mice at dietary levels up to 50,000 parts per million (ppm) (5% of the diet; approximately 2,500 and 7,500 mg/kg/day for rats and mice, respectively) for 2 years. The only effect noted was a significant reduction in body weight at the highest dose at the 10–week point of the mouse study, which continued throughout the rest of the test, which is likely attributable to the high percentage of silica in the daily diet of the test animals. No adverse effects were observed in rats.

iii. *OPP Guideline 152.23--Teratogenicity*. The published scientific literature describes silicon as essential for growth and development the skeleton, hair and feathers in rats, chicks, and other animals. Although no developmental toxicity studies were submitted, publicly available literature provided information on the effects on reproduction for sodium silicate (''soluble silica'' expressed also as silicon dioxide). In that study, sodium silicate was given in drinking water to rats for up to 180 days (120 and 240 mg/kg body weight/day at the beginning of the study when the rats were 3 weeks old, and 72 and 144 mg/kg/day by the end of the study, which is the calculated dose based on their growth to adults during the study). A decrease in numbers of live offspring at birth and at weaning was noted; however, a conclusion cannot be made that the silicates actually caused reproductive toxicity. The conditions of the study were inappropriate for normal mating and nurturing behaviors in the test animals. The use of wire-bottom cages would allow escape, illness or injury of the offspring, due to the absence of nesting materials for proper nurturing and heat retention, thus compounding the association of reproductive effects with silicate intake. Based on the alkaline nature of sodium metasilicate, when ingested it is neutralized by the stomach acid pH (less than 2), which greatly reduces it solubility by forming polymeric silicic acid, and thus the actual absorption of sodium metasilicate into the blood and tissues of the body is physically limited. This is demonstrated by the lack of significant effects on the body weights of the treated rats during the non-reproduction phase of the published study after dosing with soluble silica at the 72 mg/kg/day dose level. Since dietary exposure results in minimal absorption into body tissues, the Agency does not anticipate developmental or reproductive risks from the use, at 2.41% of sodium metasilicate as an insecticide and fungicide on growing crops.

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

1. *Food*. Sodium metasilicate is generally recognized as safe by the FDA

for use as a wash for fruits and vegetables. According to FDA findings, the residues from this use are expected to be orders of magnitude less than the estimated daily intake of 20–30 mg silica(SiO_2) from natural sources and drinking water. The submitted summary of information on sodium metasilicate (MRID 46050902) also indicated that the FDA has established maximum permissible concentrations of sodium metasilicate in potable water, fruits and vegetables at 16.0 ppm and 300 ppm, respectively.

There are a number of factors that inform EPA's conclusion that there is not likely to be much dietary exposure. First, sodium metasilicate neutralizes and breaks down under acidic conditions such as that found in the digestive tract. Second, further dilution by tank mixing with water of a pesticide product containing the active ingredient containing only 2.41% or less of sodium metasilicate by weight before foliar application reduces the amount of active ingredient that will be on the crop. These factors taken together significantly reduce the potential for dietary exposure from its pesticidal uses. Further, if the active ingredient is applied to growing crops at higher rates, the result is abrasion and dessication of the food crops. Therefore, good agricultural practices dictate that the amount of sodium metasilicate used be limited to low concentrations which happen to be appropriate for the intended pesticidal uses. Given the use dilutions and other good agricultural practices as required on product labels, the likely dietary exposures to sodium metasilicate from the pesticidal uses are expected to be equal to or even less than levels recommended by the FDA for fruit and vegetable washes.

2. *Drinking water exposure*. Sodium metasilicate residues in drinking water are expected to be minimal from its use as a pesticide, especially when compared to the ubiquity of naturally occurring forms of silicon dioxide in the environment, and the widespread use of sodium metasilicate in dishwashing soaps, other soaps, and detergents. As mentioned above, pesticide products containing 2.41% or less of sodium metasilicate are diluted at least 10 times before foliar application, and are not likely to exceed the level recommended for potable water (16 ppm).

B. Other Non-Occupational Exposure

1. *Dermal exposure*. Non-occupational dermal exposures to sodium metasilicate when used as a pesticide are expected to be negligible because it is limited to agricultural use.

2. *Inhalation exposure*. Non-occupational inhalation exposures to sodium metasilicate when used as a pesticide are expected to be negligible because it is limited to agricultural use.

V. Cumulative Effects

Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider the ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have available data to determine whether sodium metasilicate has a common mechanism of toxicity with any other substances. The mode of action as a contact insecticide and fungicide is considered by the Agency as a non-toxic mode of action on the target pest species. Further, sodium metasilicate does not appear to produce any toxic metabolites. Therefore, for the purpose of this tolerance exemption action, EPA has not assumed that sodium metasilicate has 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, refer to the policy statement released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effect from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative/*.

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 from aggregated exposure to residues of sodium metasilicate to the U.S. population. This includes all anticipated dietary exposures and other exposures for which there is reliable information. The Agency arrived at this conclusion based on the anticipated low acute exposure estimates from its pesticidal use, the low mammalian toxicity in its diluted form, the widespread use in the human diet, and that sodium metasilicate is considered GRAS under 21 CFR 184.1769a and is permitted to be added directly to food for human consumption.

2. *Infants and children*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of exposure for infants and children in the case of threshold effects. Margins of exposure are often referred to as uncertainty or safety factors, and are used to account for potential prenatal and postnatal toxicity and any lack of completeness of the data base. Based on available data and other information, EPA may determine that a different margin of exposure will define a level of concern for infants and children or that a margin of exposure approach is not appropriate. Based on all the available information the Agency reviewed on sodium metasilicate, including a lack of threshold effects, the Agency concluded that sodium metasilicate, in its diluted form, is practically non-toxic to mammals, including infants and children. Since there are no effects of concern, the provision requiring an additional margin of safety does not apply.

VII. Other Considerations

A. Endocrine Disruptors

Based on available data, no endocrine system-related effects have been identified with consumption of sodium metasilicate. In addition, there is no evidence to suggest that sodium metasilicate functions in a manner similar to any known hormone.

B. Analytical Method(s)

The Agency proposes to establish an amendment to the exemption from the requirement of a tolerance without any numerical limitation for residues since it has determined that residues resulting from the pesticidal uses of sodium metasilicate would be so low as to be indistinguishable from the naturally occurring silicates that are ubiquitous in the environment.

C. Codex Maximum Residue Level

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

VIII. Conclusions

An exemption from the requirement for a tolerance is appropriate because of the low dietary exposure likely to result from the pesticidal use of sodium metasilicate, the nature of its mode of action on the targeted pests, the metabolism of the active ingredient to other forms of silicon that is needed for growth and development in animals, and its moderate to low oral toxicity in diluted formulations (necessary to prevent damage to crops while maintaining effectiveness as a pesticide).

IX. Objections and Hearing Requests

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. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of the FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of the FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2002–0241 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 June 13, 2006.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI.Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900L), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. You may also deliver your request to the Office of the Hearing Clerk in Suite 350, 1099 14th St., NW., Washington, DC 20005. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 564–6255.

2. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in **ADDRESSES**. Mail your copies, identified by docket ID number EPA–HQ–OPP–2002–0241, to: Public Information and Records Integrity Branch, Information Technology and Resource Management Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. In person or by courier, bring a copy to the location of the PIRIB described in**ADDRESSES**. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

X. Statutory and Executive Order Reviews

This final rule establishes an amendment to an 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 amendment to 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. The Agency hereby certifies that this rule will not have a significant negative economic impact on a substantial number of small entities. 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.

XI. 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: March 30, 2006.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention 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 180.1237 is revised to read as follows:

§ 180.1237 Sodium metasilicate; exemption from the requirement of a tolerance.

(a) An exemption from the requirement of a tolerance is established for residues of sodium metasilicate in or on all food commodities when used in accordance with approved label rates and good agricultural practices as a plant desiccant, so long as the sodium metasilicate does not exceed 4% by weight in aqueous solution.

(b) An exemption from the requirement of a tolerance is established for residues of sodium metasilicate in or on all food commodities when used in accordance with approved label rates and good agricultural practices as an insecticide and fungicide, so long as the sodium metasilicate does not exceed 2.41% by weight in aqueous solution.

[FR Doc. 06–3549 Filed 4–13–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0205; FRL–7766–2]

Cyfluthrin; Pesticide Tolerance Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: EPA issued a final rule in the **Federal Register** of September 13, 2005, concerning the establishment of pesticide tolerances for residues of the insecticide cyfluthrin in/on several agricultural commodities. This document is being issued to correct omissions concerning the entry for wheat milled by products, except flour.

DATES: This final rule is effective April 14, 2006.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0205. All documents in the docket are listed on the regulations.gov website. Although listed in the index, some information is not publicly available, i.e., 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 electronically at *http://www.regulations.gov* or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., 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 Facility is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Olga Odiott, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9369; e-mail address: *odiott.olga@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under the **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using regulations.gov (*http://www.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/*. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

II. What Does this Correction Do?

FR Doc. 05–17823 published in the **Federal Register** of September 13, 2005 (70 FR 53944) (FRL–7725–7) is corrected as follows:

1. On page 53944, in the first column, under **SUMMARY**, seventh line from the bottom, add ''wheat bran;'' before ''wheat forage;'' and ''wheat shorts;'' after ''wheat hay;''.