Dated: August 16, 2007.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. E7–17133 Filed 8–28–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0182; FRL–8143–3]

Dibasic Esters (CAS Reg. No. 95481–62–2); Proposed Pesticide Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish an exemption from the requirement of a tolerance for residues of dibasic esters (DBE; CAS Reg. No. 95481–62–2) under 40 CFR 180.1277 when used as an inert ingredient solvent material/anti-freeze microencapsulated at 10% weight/weight (W/W) or less in pesticide formulations with the active ingredient cyfluthrin. Whitmire Micro-Gen Research Laboratories, Inc. 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. New data were received by EPA after the publication of the petitoner's Notice of Filing, therefore, EPA is providing the public with an additional opportunity to comment on the petitioner's request in this proposed rule.

DATES: Comments must be received on or before October 29, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0182, 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.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0182. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., 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 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: Tracy Ward, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460-0001; telephone number: (703) 308–9361; e-mail address: *ward.tracyh@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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II. 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. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the

public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background and Statutory Findings

In the **Federal Register** of December 23, 1998 (63 FR 71126) (FRL–6047–7), EPA issued a notice under section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 5E4442) by Whitmire Micro-Gen Research Laboratories, Inc., 3568 Tree Court Industrial Blvd., St. Louis, MO 63122–6682. The petition requested that 40 CFR 180.910 and 180.930 be amended by establishing a tolerance for residues of the inert ingredient DBE. This notice included a summary of the petition prepared by Whitmire Micro-Gen Research Laboratories, Inc., the petitioner. There were no comments received in response to the notice of filing.

The typical process used by EPA in considering new tolerance exemptions for inert ingredients is to publish the petition for public comment in a Notice of Filing, evaluate the available data and information on the chemical, and publish a final rule in the **Federal Register** if the Agency concludes that a tolerance exemption can be established. In the case of DBE, a significant number of new studies on DBE were received by EPA after the publication of the Notice of Filing [see the **Federal Register** of August 5, 1999 (64 FR 42692)] in which the Agency issued a testing consent order incorporating an enforceable consent agreement (ECA) under section 4 of the Toxic Substance Control Act (TSCA). EPA reviewed the new data [see the **Federal Register** of August 17, 2005 (70 FR 48418)] and considered the study results in evaluating this petition. The Agency and the U.S. Consumer Product Safety Commission (CPSC) agreed that all testing requirements were completed, and that a third testing phase (*in vivo* dermal penetration rate testing) was unnecessary. Considering this new data were not part of the December 23, 1998 Notice of Filing, EPA is providing the public with an additional opportunity to comment on the petitioner's request to establish a tolerance exemption for DBE by proposing to establish a tolerance exemption for DBE in this document.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement of 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 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. Section 408(b)(2)(C) of the 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 performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

III. Risk Characterization and Conclusions

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. The nature of the toxic effects caused by the dibasic esters (DBE) are discussed in this unit. EPA has sufficient data to assess the hazards of, and to make a determination on, aggregate exposure for this chemical.

The following provides a brief summary of the risk assessment and conclusions for the Agency's review of DBE. The full decision document for this action is available on EPA's Electronic Docket at *http://www.regulations.gov/* under docket number EPA–HQ–OPP–2007–0182.

A. Human Health

The Agency reviewed the information submitted by the petitioner as well as additional information available to the Agency and has determined that DBE has low acute oral and inhalation toxicity and low subchronic oral toxicity with a no observed adverse effect level (NOAEL) of 842 mg/kg/day. In acute eye toxicity studies on the rabbit, DBE had mild to moderate eye irritation. In subchronic inhalation studies, DBE had a systemic inhalation NOAEL ≥ 0.40 mg/L (400 milligrams/milliliter (mg/m^3)), but a nasal irritation NOAEL < 0.02 mg/L (20 mg/m^3). DBE did not induce neurotoxicity or carcinogenicity in the studies reviewed, and it was negative for mutagenicity in most tests, but positive for chromosomal aberrations under activated conditions. In a repeat-dose inhalation reproduction toxicity study, DBE had a NOAEL of 0.40 mg/L (400 mg/m^3) and a Lowest effect level (LEL) of 1.0 mg/L (1,000 mg/m^3) based on decreased pup weights at weaning. In repeat-dose inhalation exposure studies, developmental toxicity was observed at higher doses (1.0 mg/L or 1,000 mg/m3) than maternal toxicity (0.16 mg/L or 160 mg/m^3).

In studies, DBE did not cause dermal irritation in animals exposed for four hours, but caused severe irritation (severe erythema and mild edema) in one animal and reversible mild to moderate irritation in animals exposed to DBE for 24 hours. DBE was not considered to be a skin-sensitizer in guinea pigs. In repeat-dermal exposure studies conducted on the rat, DBE had a systemic dermal NOAEL of 1,000 mg/kg/day, and dermal irritation lowest observed adverse effect level (LOAEL) of 100 mg/kg/day based on the slight, but reversible, erythema and edema.

B. Exposure Assessment

The use of DBE in pesticide products is being limited to 10% or less of microencapsulated pesticide formulations with the insecticide active ingredient cyfluthrin. Uses of cyfluthrin are currently limited to food-use applications such as spot and crack and crevice treatments in food processing plants and food storage areas, and it is typically applied by commercial applicators. Dietary exposures of concern from residues in food and drinking water are not anticipated. The microencapsulated formulation and its restriction to use with one active ingredient will reduce the potential for residential exposures (inhalation and dermal) to a minimal level. DBE is also used in non-pesticide consumer products such as paint solvents. The use of DBE as an inert ingredient in pesticide formulations, with the above limitations, is not expected to contribute significantly to exposures from its use in non-pesticide consumer products.

C. Safety Factor for Infants and Children

Section 408 of the FFDCA provides that EPA shall apply an additional tenfold 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 that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. The toxicity database is sufficient for DBE and potential exposure is adequately characterized based on the low use rate. In terms of hazard, there are low concerns and no residual uncertainties regarding prenatal and/or postnatal toxicity.

D. Cumulative Exposure

Section 408(b)(2)(D)(v) of the 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.'' Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to DBE and any other substances, and the chemical does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that DBE 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, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

E. Other Considerations

1. *Analytical methods*. Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305-2905; e-mail address: *residuemethods@epa.gov*. Residues are not expected because of the low amount that will be permitted in the pesticide formulation (limited to 10% W/W or less) and the limitation of use with one pesticide active ingredient.

2. *International tolerances*. The Agency is not aware of any country requiring a tolerance for DBE, nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

F. Determination of Safety and Conclusions

Based on the information in this preamble, EPA concludes that there is a reasonable certainty of no harm to the general population, including infants and children, from aggregate exposure to residues of DBE. Accordingly, EPA finds that exempting DBE from the requirement of a tolerance will be safe.

IV. Conclusion

A tolerance exemption is proposed for residues of DBE when it is used as an inert ingredient solvent material/anti-freeze microencapsulated at 10% W/W or less in pesticide formulations with the active ingredient cyfluthrin.

V. Statutory and Executive Order Reviews

This action proposes to establish a tolerance exemption 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 proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed 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 proposed 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 104–13, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Agency hereby certifies that this proposed action will not have significant negative economic impact on a substantial number of small entities. Establishing a pesticide tolerance or an exemption from the requirement of a pesticide tolerance is, in effect, the removal of a regulatory restriction on pesticide residues in food and thus such an action will not have any negative economic impact on any entities, including 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 proposed 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 proposed 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 proposed 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 proposed rule.

List of Subjects in 40 CFR Part 180

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

Dated: August 20, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be 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 180.1277 is added to subpart D to read as follows:

§ 180.1277 Dibasic esters; Exemption from the requirement of a tolerance.

Dibasic esters (CAS Reg. No. 95481–62–2) is exempted from the requirement of a tolerance for residues when used as an inert ingredient (solvent material/anti-freeze) at 10% W/W or less in microencapsulated pesticide formulations with the active ingredient cyfluthrin.

[FR Doc. E7–17109 Filed 8–28–07; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–3559; MB Docket No. 07–164; RM–11386]

Radio Broadcasting Services; Peach Springs, Arizona

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by Smoke and Mirrors LLC, requesting the substitution Channel 268C3 for vacant Channel 285C3 at Peach Springs, Arizona, and to amend the reference coordinates for that allotment. Channel 268C3 can be allotted at reference coordinates 35–29–35 NL and 113–35–17 WL.

DATES: Comments must be filed on or before October 1, 2007, and reply comments on or before October 16, 2007.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel as follows: Robert L. Olender, Esq., Koerner & Olender, P.C., 11913 Grey Hollow Court, North Bethesda, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau, (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 07–164, adopted August 8, 2007, and released August 10, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com.*

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona is amended by removing Channel 285C3 and adding Channel 268C3 at Peach Springs.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–17014 Filed 8–28–07; 8:45 am]

BILLING CODE 6712–01–P