extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the State of Delaware's amendment to the definition of the term ''Fire-Resistant (interior) Coating'' in Regulation 24, Section 10—*Aerospace Coatings* may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 16, 2004.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart I—Delaware

■ 2. In Section 52.420, the table in paragraph (c) is amended by revising the entry for Regulation 24—Control of Volatile Organic Compound Emissions, Section 10 to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
* * *	*	*	*	* *
Regulation 24	CONTROL OF VOLATILE ORGANIC COMPOUND EMISSIONS			
* * *	*	*	*	* *
Section 10	Aerospace Coatings	02/11/03	March 24, 2004	Revision to definition of ''Fire-Resistant (interior) Coating.'' Section 10 originally approved 01/26/96, 61 FR 2419.
* * *	*	*	*	* *

[FR Doc. 04–6562 Filed 3–23–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2004–0001; FRL–7341–3]

Ammonium Bicarbonate; 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 the biochemical pesticide, ammonium bicarbonate on all food commodities when applied/used according to its label instructions as a feeding attractant. Certis USA, LLC submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of ammonium bicarbonate.

DATES: This regulation is effective March 24, 2004. Objections and requests for hearings, identified by docket ID number OPP–2004–0001, must be received on or before May 24, 2004.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit IX. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Andrew Bryceland, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6928; e-mail address: *bryceland.andrew@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 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 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. 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 Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2004–0001. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119,

Crystal Mall #2, 1921 Jefferson Davis Hwy., 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.

The legacy docket for this case is OPP–2002–0214, which was set up in connection with the Notice of Filing of this pesticide petition, (PP 2F6477). It contains the **Federal Register** Notice dated September 25, 2002 (68 FR 60236) (FRL–7194–1), which was published to announce this petition.

2. *Electronic access.* 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 *http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html*, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background and Statutory Findings

In the **Federal Register** of September 25, 2002 (67 FR 60233), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a(e), as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide tolerance petition (PP 2F6477) by Certis USA LLC, 9145 Guild Road, Suite 175, Columbia, MD 21046. This notice included a summary of the petition prepared by the petitioner Certis USA LLC. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of ammonium bicarbonate.

III. Risk Assessment

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 tolerance 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. 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 * * *.'' 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.

IV. 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.

Ammonia is a substance naturally produced in the human body from the metabolism of protein, amino acids, and other nitrogen containing chemicals (Refs. 1 and 2). A fairly large amount of ammonia (>50 mk/kg) is produced in the body each day from the breakdown of dietary protein and amino acids (Refs. 1 and 2). Bicarbonates are part of several commonly consumed compounds such as sodium bicarbonate and potassium bicarbonate, both of which have tolerance exemptions from EPA under 40 CFR 180.1176 and 40 CFR 180.1177, respectively. The Food and Drug Administration (FDA) allowed the use of ammonium bicarbonate as a direct food additive and EPA exempted ammonium bicarbonate from the requirement from a tolerance when used as an inert ingredient such as a surfactant or a suspending or dispersing agent in formulations applied to growing crops, and as a post-harvest treatment (Refs. 1 and 3). EPA has been petitioned to exempt from the requirement of a tolerance ammonium bicarbonate as an active ingredient. The toxicology of ammonium bicarbonate is no different for an active ingredient than it is from an inert ingredient.

Exposure of ammonium bicarbonate to ambient sunlight and heat results in the slow release of small amounts of ammonia (Refs. 1, 2, and 3). Ammonium bicarbonate is a preexisting component of the diet and degrades into ammonia, carbon dioxide, and water (Refs. 1, 2, and 3); therefore, during decomposition, ammonia would be the only component of concern and based on the commonly understood toxicology of ammonia, oral toxicity is not anticipated because when used as an attractant, the concentration of ammonia is estimated to be 100 times less than worldwide ambient atmospheric concentration (Refs. 1 and 2). Thus, it is unlikely that exposure to ammonium bicarbonate, or to the component(s) of ammonium bicarbonate, from the use of this pesticide will significantly add to ambient exposures already documented and without adverse effects.

The petitioner did not generate any toxicology and/or pathogenecity data in support of this tolerance exemption. Waivers for data requirements for toxicology and pathogenecity were requested and granted based on information/data submitted from the open scientific literature in support of the tolerance exemption for ammonium bicarbonate and are discussed below.

The following discussion of the evaluation of the information from the open scientific literature indicates a lack of toxicity and exposure to the pesticide and its degradation products will not likely add significantly to levels already present in the environment. More detailed analyses of these literature citations can be found in the specific Agency review of such information (Ref. 1). In addition, a substantial body of information on ammonium bicarbonate is published and selected copies are included in this reference (Refs. 2 and 3).

1. *Hypersensitivity incidents (40 CFR 152.12).* No hypersensitivity incidents have been reported by the registrant. However, to comply with the Agency's requirements under section 6(a)(2), any incident of hypersensitivity associated with the use of this pesticide must be reported to the Agency.

2. *Data waivers*. Data waivers were requested for the following studies:

i. *Acute oral toxicity (OPPTS Harmonized Guideline 870.1100)*. No MRID. Acute oral LD_{50} toxicity study in the rat. No study was submitted, however, the literature and submitted material safety data sheets, report an acute oral LD_{50} value of 1,576 milligrams/kilogram (mg/kg) in the rat. This information is acceptable to allow placement of ammonium bicarbonate in Toxicity Category III for the oral route (Refs. 1 and 2).

ii. *Acute dermal toxicity (OPPTS Harmonized Guideline 870.1200)*. The pH of ammonium bicarbonate is 7.8 in a 0.1N solution, and it degrades into ammonia, carbon dioxide, and water (Refs. 1 and 3). Therefore, no toxicity or irritation to the skin is expected, and further, no incidents of toxicity to the skin are reported.

iii. *Acute inhalation toxicity (OPPTS Harmonized Guideline 870.1300)*. Ammonium bicarbonate degrades into ammonia, carbon dioxide, and water, and the only component of concern would be ammonia during decomposition. Acute and chronic inhalation minimum risk levels (MRL) for ammonia have been set at 0.5 parts per million (ppm) and 0.3 ppm, respectively; which far exceeds any potential exposure from the pesticide use (Ref. 1).

iv. *90–Day oral toxicity in rodents (OPPTS Harmonized Guideline 870.3100)*. Ammonium bicarbonate is a preexisting component of the diet, and degrades only to ammonia, carbon dioxide, and water; therefore, oral toxicity is not anticipated (Refs. 1, 2, and 3).

v. *Reproduction/developmental toxicity screening test (OPPTS Harmonized Guideline 870.3550)*. Ammonium bicarbonate is a preexisting component of the diet, and degrades only to ammonia, carbon dioxide, and water; therefore, reproduction/ developmental toxicity is not anticipated(Refs. 1, 2, and 3).

vi. *Bacterial reverse mutation test (OPPTS Harmonized Guideline (870.5100)*. Ammonium bicarbonate (with or without S9 mix activation) was not mutagenic in the Ames assay when *S. typhimurium* strains TA97 and TA102 were exposed to 0.1 to 10 mg/ assay plate (Refs. 1 and 2).

vii. *Immunotoxicity (OPPTS Harmonized Guideline 870.7800)*. Ammonium bicarbonate is a preexisting component of the diet, and degrades only to ammonia, carbon dioxide, and water; therefore, immunotoxicity is not anticipated (Refs. 1, 2, and 3).

Data waivers of acute and subchronic oral studies, a dermal toxicity study, an acute inhalation study, mutagenicity studies, an immunotoxicity study, and a developmental toxicity study were requested and granted based on the submitted information from the public literature (Ref.1). Exposure to either ammonium bicarbonate, or to the ammonia component of ammonium bicarbonate, from the pesticidal use is not likely to add significantly to ambient exposures already documented and without reported adverse effects (Ref. 1). The amounts of ammonia released from the product over time result in calculated concentrations of 0.03 parts per billion (ppb)/day, well below the chronic human inhalation MRL of 0.3 ppm (Refs. 1 and 2). This exemption is supported by the fact that there are likely to be zero to minimal residues and any residues that might be found are within the safe limits identified by the data.

3. *Subchronic, chronic toxicity, and oncogenicity, and residue data*. Based on the information submitted by the registrant in accordance with the Tier I data requirements set forth in 40 CFR 158.690(c), the Tier II and III data requirements were not triggered and, therefore, not required in connection with this action. In addition, because the Tier II and Tier III data requirements were not required, the residue data requirements set forth in 40 CFR 158.690(b) also were not required.

V. Aggregate Exposures

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

A. Dietary Exposure

The ammonium bicarbonate in the end-use product will be contained within a polymeric substance, and as such will not come into direct contact with olives, thus no residues are expected and exposure via the oral route is unlikely.

1. *Food*. Ammonium bicarbonate at low levels is a preexisting component of the diet and is not known to be a toxic compound in the human diet. FDA has classified ammonium bicarbonate as Generally Regarded As Safe (GRAS) (21 CFR 582.1135), and allows its use as a direct food additive (21 CFR 184.1135). Because the product is contained within a polymeric substance, there will be minimal additional dietary exposure from this use (Ref. 1). There is however, some potential for the ammonia gas from the decomposed product to come into contact with growing olives. However, it is expected that levels of gaseous ammonia would be well below the normal background levels of atmospheric ammonia present in an area of crop production.

2. *Drinking water exposure*. Exposure to residues of ammonium bicarbonate via drinking water is not likely to occur because ammonium bicarbonate is soluble in water and would break down into ammonia, carbon dioxide and water (Ref. 1). As gases, most of the ammonia and carbon dioxide will be released from the water.

B. Other Non-Occupational Exposure

The exposure levels of ammonia established by the Office of Safety and Health Administration (OSHA) at 35 ppm for 15 minutes (Refs. 1 and 2). In addition, the levels of exposure expected from use of this product are again less than the levels of ammonia in the workplace as recommended by the National Institute of Occupational Safety and Health (NIOSH) which are to be 50 ppm for 5 minutes of exposure (Refs. 1 and 2). The use of ammonium bicarbonate as a pesticide active ingredient is for field use, rather than indoor use. The additional exposure to ammonia as a degradation product of ammonium bicarbonate when used as a pesticide under field conditions will be far less than limits established by OSHA or NIOSH for occupational uses. Non-occupational exposure should be minimal.

1. *Dermal exposure*. The potential for non-occupational exposure to residues of ammonium bicarbonate is unlikely because the method of application in a polymeric substance limits any anticipated dermal exposure (Ref. 1).

2. *Inhalation exposure*. The potential for non-occupational inhalation exposure to residues of ammonium bicarbonate will occur at levels far lass than those established by OSHA and NIOSH. The total amount of ammonium bicarbonate applied per orchard/acre is 168 grams. The ammonium bicarbonate will slowly decompose to ammonia, carbon dioxide and water vapor. The total yield of ammonia would be 34.5 grams per season. If 36 g of ammonia is distributed in a single point in time over an acre of olive orchard to a height of 15 feet, the calculated concentration of ammonia would be 3 ppb. Assuming a release of ammonia from the product occurs over a 4–5 month period, a theoretical daily concentration can be

estimated at about 0.03 ppb/day during this time. This 0.03 ppb value is about 100 times less than the worldwide ambient atmospheric estimates of 1–3 ppb, and about 10,000 fold lower than ammonia concentrations (i.e., 300 ppb) reported over an agricultural field after fertilizer application. Furthermore, the 0.03 ppb value is lower than: The acute inhalation LC_{50} values after 15 minutes of exposure to ammonia that were reported as 17,401 ppm in the rat, and after 30 minutes of exposure, 21,430 ppm in the mouse; the acute and chronic inhalation minimal risk levels (MRLs) of 0.5 ppm and 0.3 ppm, respectively, that have been derived from studies with humans; the OSHA short-term (15 minute) exposure level of 35 ppm for ammonia; and the NIOSH recommended limited ammonia levels in the workplace of 50 ppm for 5 minutes of exposure (Ref. 1).

VI. Cumulative Effects

The Agency has considered the cumulative effects of ammonium bicarbonate and other substances in relation to a common mechanism of toxicity. These considerations include the possible cumulative effects of such residues on infants and children. There is no indication of mammalian toxicity at the maximum doses tested, of this or other products containing ammonium bicarbonate. Ammonium bicarbonate degrades into ammonia, carbon dioxide and water and the only component of concern would be ammonia (Refs. 1, 2, and 3); therefore, reasonably foreseeable exposures do not approach any toxicological level of concern.

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

1. *U.S. population*. There is reasonable certainty that no harm will result from aggregate exposure to residues of ammonium bicarbonate to the U.S. population, infants and children. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion based on the classification by FDA that ammonium bicarbonate is GRAS (21 CFR 582.1135), and allows its use as a direct food additive (21 CFR 184.1135). EPA exempts ammonium bicarbonate from the requirement of a tolerance when used as a surfactant, or a suspending or dispensing agent in formulations applied to growing crops or to food commodities after harvest, 40 CFR 180.1001(c) (Refs. 1, 2, and 3). Further, the active ingredient will be contained in a polymeric substance, in a retrievable device and while contained in this device, the product will slowly decompose to ammonia, carbon dioxide, and water at a rate which exceeds that which the human body produces each day from the breakdown of proteins and amino acids. Moreover, the levels of ammonia produced by the human body far exceed those levels of ammonia anticipated to be released from the use of this product and the estimated worldwide atmospheric levels of ammonia.

2. *Infants and children*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. Margins of exposure (safety) are often referred to as uncertainty (safety) factors. In this instance, based on all available information, the Agency concludes that ammonium bicarbonate is practically non-toxic to mammals including infants and children. Because there are no threshold effects of concern to infants, children and adults when ammonium bicarbonate is used as labeled, the provision requiring an additional margin of safety does not apply. Further, the provisions of consumption patterns, special susceptibility, and cumulative effects do not apply. As a result, EPA has not used a margin of exposure (safety) approach to assess the safety of ammonium bicarbonate.

VIII. Other Considerations

A. Endocrine Disruptors

Based on available data, no endocrine system-related effects have been identified with consumption of ammonium bicarbonate. It is produced in the human body, exempt for tolerance requirement by EPA as an inert ingredient, and allowed by the U.S. Department of Agriculture as a direct food additive. To date, there is no evidence to suggest that ammonium bicarbonate affects the immune system, function in a manner similar to any known hormone, or that it acts as an endocrine disruptor.

B. Analytical Method(s)

The Agency proposes to establish an exemption from the requirement of a tolerance for residues of ammonium bicarbonate, without any numerical limitation. Reasonably forseeable exposures to residues of ammonium bicarbonate will not significantly add to the levels already in the environment because the proposed use involves containing the active ingredient within a polymeric substance and because ammonium bicarbonate rapidly degrades to ammonia. Exposure to residues from ammonium bicarbonate will not significantly add to the levels already present in the environment because the active ingredient will be contained within a polymeric substance and it rapidly degrades into ammonia, water and carbon dioxide, at levels much below any reported levels of toxicological concern. Ammonium bicarbonate is a preexisting component of the human diet and is allowed as a direct food additive by the FDA (Refs. 1, 2, and 3).

The Agency concludes that an analytical method is not required for enforcement purposes for ammonium bicarbonate. However, an enforcement analytical method (OPPTS Harmonized Guideline 830.1800) was provided by the petitioner.

C. Codex Maximum Residue Level

There is no CODEX maximum residue levels for residues of ammonia or ammonium bicarbonate.

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 OPP–2004–0001 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 May 24, 2004.

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 (1900C), 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 Rm.104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. 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 (703) 603–0061.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit IX.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by docket ID number OPP–2004–0001, to: Public Information and Records Integrity Branch, Information Resources and Services 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 Unit I.B.1. 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. References

1. Sjoblad, R.S. *Memorandum. Review of Data/Information Submitted by Certis USA to Support a Tolerance Exemption (Petition No. 2F6477) for Residues of Ammonium Bicarbonate in Olives (D288947; Case 295326; S631096).* March 26, 2003.

2. Syracuse Research Corporation. *Volume 3: Toxicological Profile for Ammonia, MRID No. 457120-02.* December 1990.

3. Wagner, J.M. *Volume 2: Public Literature Submitted to Support the Petition for the Exemption of Ammonium Bicarbonate from the Requirement of a Tolerance for Residues in or on Olives, MRID No. 457120–01.* April 2002.

XI. Statutory and Executive Order Reviews

This final rule establishes 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 exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10,

1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

XII. 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 5, 2004.

James Jones,

Director, 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), 346(a) and 371.

■ 2. Section 180.1244 is added to subpart D to read as follows:

§ 180.1244 Ammonium bicarbonate; exemption from the requirement of a tolerance.

An exemption from the requirement of tolerance is established for residues of ammonium bicarbonate used in or on all food commodities when used in accordance with good agricultural practices.

[FR Doc. 04–6431 Filed 3–23–04; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 0

[DA 04–683]

Freedom of Information Act

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is modifying a section of the Commission's rules that implements the Freedom of Information Act (FOIA) Fee Schedule. This modification pertains to the charge for recovery of the full, allowable direct costs of searching for and reviewing records requested under the FOIA and the Commission's rules, unless such fees are restricted or waived. The fees are being revised to correspond to modifications in the rate of pay approved by Congress.

DATES: Effective March 24, 2004.

FOR FURTHER INFORMATION CONTACT: Shoko B. Hair, Freedom of Information Act Officer, Office of Performance Evaluation and Records Management, Room 1-A827, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418–1379 or via Internet at *shoko.hair@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Federal Communications Commission is modifying § 0.467(a) of the Commission's rules. This rule pertains to the charges for searching and reviewing records requested under the FOIA. The FOIA requires federal agencies to establish a schedule of fees for the processing of requests for agency records in accordance with fee guidelines issued by the Office of Management and Budget (OMB). In 1987, OMB issued its Uniform Freedom of Information Act Fee Schedule and Guidelines. However, because the FOIA requires that each agency's fees be based upon its direct costs of providing FOIA services, OMB did not provide a unitary, government-wide schedule of fees. The Commission based its FOIA Fee Schedule on the grade level of the employee who processes the request. Thus, the Fee Schedule was computed at a Step 5 of each grade level based on the General Schedule effective January 1987 (including 20 percent for personnel benefits). The Commission's rules provide that the Fee Schedule will be modified periodically to correspond with modifications in the rate of pay approved by Congress. *See* 47 CFR 0.467(a)(1) note.

In an Order adopted on March 10, 2004 and released on March 15, 2004 (DA 04–683), the Managing Director revised the schedule of fees set forth in 47 CFR 0.467 for the recovery of the full, allowable direct costs of searching for and reviewing agency records requested pursuant to the FOIA and the Commission's rules, 47 CFR 0.460, 0.461. The revisions correspond to modifications in the rate of pay, which was approved by Congress.

These modifications to the Fee Schedule do not require notice and comment because they merely update the Fee Schedule to correspond to modifications in rates of pay, as required under the current rules.

Accordingly, pursuant to the authority contained in § 0.231(b) of the Commission's rules, 47 CFR 0.231(b), it is hereby ordered, that, effective on March 24, 2004, the Fee Schedule contained in § 0.467 of the Commission's rules, 47 CFR 0.467, is amended, as described herein.

List of Subjects in 47 CFR Part 0

Freedom of information.