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

* * * * *

Inert Ingredients	Limits	Uses
* * * * * *	*	
Sodium alkyl naphthalenesulfonates (CAS Reg. Nos. 68909–83–1, 68909–84–2, 68909–82–0, 27213–90–7, 26264–58–4, 27178–87–6, 111163–74–7, 908356–16–1, 25417–20–3, 25638–17–9, 145578–88–7, 1322–93–6, 1323–19–9, 7403–47–6, 68442–09–1, 127646–44–0, 908356–18–3).	Limited to no more than 30% by weight in pesticide end-use products.	Surfactants, related adjuvants of surfactants
* * * * * *	*	

■ 4. In § 180.930, the table is amended by adding alphabetically the following inert ingredients to read as follows:

§ 180.930 Inert ingredients applied to animals; exemptions from the requirement of a tolerance.

* * * * *

Inert Ingredients	Limits	Uses
* * * * * *	*	
Sodium alkyl naphthalenesulfonates (CAS Reg. Nos. 68909–83–1, 68909–84–2, 68909–82–0, 27213–90–7, 26264–58–4, 27178–87–6, 111163–74–7, 908356–16–1, 25417–20–3, 25638–17–9, 145578–88–7, 1322–93–6, 1323–19–9, 7403–47–6, 68442–09–1, 127646–44–0, 908356–18–3).	Limited to no more than 30% by weight in pesticide end-use products.	Surfactants, related adjuvants of surfactants
* * * * * *	*	

[FR Doc. E9–18702 Filed 8–4–09; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0881; FRL–8429–1]

Pasteuria usgae; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the requirement of a tolerance for residues of the microbial pesticide, *Pasteuria usgae*, on strawberries when applied/used as a nematicide in accordance with the terms of Experimental Use Permit (EUP) 85004-EUP-1. MacIntosh and Associates, Incorporated, 1203 Hartford Avenue, Saint Paul, MN 55116–1622 (on behalf of Pasteuria Bioscience, Incorporated, 12085 Research Drive, Suite 185, Alachua, FL 32615) submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of *Pasteuria usgae* in or on strawberries. The temporary tolerance exemption expires on December 31, 2010.

DATES: This regulation is effective August 5, 2009. Objections and requests for hearings must be received on or before October 5, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0881. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Jeannine Kausch, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8920; e-mail address: *kausch.jeannine@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

In addition to accessing electronically available documents at *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*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr*. To access the OPPTS Harmonized Guidelines referenced in this document, go direcrly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0881 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 October 5, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2008–0881, 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 Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of January 8, 2009 (74 FR 808) (FRL–8394–2), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 8G7471) by MacIntosh and Associates, Incorporated, 1203 Hartford Avenue, Saint Paul, MN 55116–1622 (on behalf of Pasteuria Bioscience, Incorporated, 12085 Research Drive, Suite 185, Alachua, FL 32615). The petition requested that 40 CFR part 180 be amended by establishing a temporary exemption from the requirement of a tolerance for residues of *Pasteuria usgae* in or on strawberries. This notice included a summary of the petition prepared by the petitioner MacIntosh and Associates, Incorporated (on behalf of Pasteuria Bioscience, Incorporated). There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe '' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B) of FFDCA, in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in sections 408(b)(2)(C) and (D) of FFDCA, 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 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 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.

Pasteuria, a genus of bacteria, includes a number of species that have shown potential in controlling plant-parasitic nematodes. These bacteria are obligate endoparasites, organisms that grow internally in a limited range of hosts. *Pasteuria usgae*, a recently discovered species, is host-specific for the sting nematode (*Belonolaimus longicaudatus*). This species of *Pasteuria* is pending recognition by the Judicial Commission of the International Committee for Systematic Bacteriology. There is sufficient evidence from morphology, host specificity, and genomics to justify *Pasteuria usgae* as a distinct species. In developing a product for crop application, such as a use on strawberries, the difficulty of growing *Pasteuria* outside of a nematode host has always been an obstacle. This host specificity is at the core of EPA's conclusions that *Pasteuria usgae* may be granted a temporary exemption from the requirement of a tolerance. Additional information regarding *Pasteuria usgae* can be found in the biopesticides registration action document (BRAD) on the Biopesticides and Pollution Prevention Division (BPPD) website: *http://www.epa.gov/pesticides/biopesticides*.

Studies submitted to the Agency were issued master record identification (MRID) numbers and reviewed by BPPD scientists. The following summaries of the toxicological profile of *Pasteuria usgae* are based on an Agency risk assessment memorandum and related data evaluation records dated April 9, 2009.

1. *Acute oral toxicity and pathogenicity – rat, (OPPTS Harmonized Guideline 885.3050; MRID No. 474267–09). Pasteuria usgae* does not appear to be toxic and/or pathogenic

in rats when dosed at 1 x 10^8 spores/animal. There were no treatment-related clinical signs or necropsy findings in rats receiving a single oral dose of 1 x 10^8 *Pasteuria usgae* spores. Three males in the microbial pest control agent (MPCA)-treated group gained weight through day 14 but lost weight by day 21. All other animals gained weight prior to scheduled sacrifice. Microbial enumeration was not performed because the testing laboratory showed that the test material would not grow on agar media. Therefore, while no significant adverse effects were seen, the typical clearance of the microbe could not be confirmed. However, because the spores are highly specific to sting nematode, infectivity is unlikely to be a concern. This study was rated ''Acceptable'' and *Pasteuria usgae* was classified as Toxicity Category IV.

2. *Acute injection toxicity and pathogenicity – rat, (OPPTS Harmonized Guideline 885.3200; MRID No. 474267–11).* There were no treatment-related significant adverse effects seen in the rats receiving a single intravenous dose of 10^8 *Pasteuria usgae* spores. One treated female lost weight by day 7 but gained weight prior to sacrifice on day 14. All other animals gained weight throughout the study. All animals survived and appeared normal during the study. No abnormalities were observed in any animal at necropsy or in harvested organs. No significant variations in organ weight were found between different groups or sexes. The acute intravenous LD_{50} of *Pasteuria usgae* is greater than 1 x 10^8 spores/animal in male and female rats. *Pasteuria usgae* does not appear to be toxic and/or pathogenic in rats when dosed at 10^8 spores/animal. MRID No. 474267–09 reported that the microbial enumeration was not done because the test material would not grow on agar media. Since microbial enumeration was not performed, the infectivity was uncertain. However, because the spores are highly specific to sting nematode, infectivity is unlikely to be a concern. *Pasteuria usgae* was not pathogenic as tested in this study. This study was rated ''Acceptable'' and *Pasteuria usgae* was classified as Toxicity Category IV.

3. *Acute dermal toxicity – rat, (OPPTS Harmonized Guideline 885.3100; MRID No. 474267–12).* Based on the results of this study, *Pasteuria usgae* does not appear to be toxic in rats when treated with 2,000 milligrams/kilogram (mg/kg) at 10^8 spores/milliliter (mL). Thus, the acute dermal LD_{50} is greater than 2,000 mg/kg for 10^8 spores/mL in male and female rats. There were no treatment-related significant adverse effects seen in the dosed rats. Two males and one female had very slight erythema on day 1 with clearance by day 4. One male lost weight slightly during the second week and one male and two females lost weight during the first week, but all gained weight by the end of the study. All other animals gained weight throughout the study. This study was rated ''Acceptable'' and *Pasteuria usgae* was classified as Toxicity Category IV.

4. *Acute pulmonary toxicity and pathogenicity – rat, (OPPTS Harmonized Guideline 885.3150; MRID No. 474267–10).* In an acute pulmonary toxicity and pathogenicity assessment, there were no test substance-related significant adverse effects seen in rats receiving a single dose of approximately 1–3 x 10^8 spores of *Pasteuria usgae.* One dosed female exhibited pale lungs. Additionally, one untreated control female lost weight by day 21 and another untreated control female lost weight by day 14 but gained weight by day 21. One MPCA-treated male did not gain weight by day 7 but gained weight thereafter. However, all other animals gained weight throughout the study. Based on these results, *Pasteuria usgae* does not appear to be toxic and/or pathogenic in rats when dosed at approximately 1–3 x 10^8 spores/animal. Microbial enumeration was not performed because the testing laboratory showed that the test material would not grow on agar media. Therefore, while no significant adverse effects were seen, the typical clearance of the microbe could not be confirmed. However, because the spores are highly specific to sting nematode, infectivity is unlikely to be a concern. This study was rated ''Acceptable'' and *Pasteuria usgae* was classified as Toxicity Category IV.

5. *Hypersensitivity Incidents, (OPPTS Harmonized Guideline 885.3400; MRID No. 474350–02).* No hypersensitivity incidents—involving *Pasteuria usgae* and occurring during fermentation, processing, formulation, or research—have been reported to the Agency. Any future hypersensitivity incidents must be reported per OPPTS Harmonized Guideline 885.3400.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of 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

Dietary exposure to *Pasteuria usgae* may occur, mainly through food. However, the lack of acute oral toxicity/pathogenicity, based on the toxicology test on rats presented in Unit III, along with the inability of the microbe to grow outside of a nematode host, support the establishment of a temporary exemption from the requirement of a tolerance for *Pasteuria usgae.* Additionally, under 40 CFR 180.1135, a similar active ingredient, *Pasteuria penetrans*, was assessed previously and granted a permanent exemption from the requirement of a tolerance in or on all raw agricultural commodities, except roots and tubers, when used as a nematicide in the production of fruits and vegetables in greenhouses (59 FR 66740, December 28, 1994).

1. *Food.* The program description for EUP 85004-EUP-1 details application timing and methods, which indicate strawberry exposure to *Pasteuria usgae* is unlikely to occur (e.g., *Pasteuria usgae* formulations are applied via overhead spray or broadcast at bed formation or prior to planting but only via drip irrigation during plant growth). Should exposure to *Pasteuria usgae* take place during the course of EUP 85004-EUP-1, standard practices of washing, cooking, or processing fruits will reduce residues of *Pasteuria usgae* and minimize dietary exposure. Any actual dietary exposure is expected to be several orders of magnitude lower than the dose used in the acute oral toxicity/pathogenicity test referenced in Unit III, during which no toxic or pathogenic effects were observed in rats. The Agency concludes that there is a reasonable certainty that no harm will result from the aggregate exposure to the residues of *Pasteuria usgae* in food.

2. *Drinking water exposure.* Exposure of humans to residues of *Pasteuria usgae* in drinking water is unlikely. The proposed use patterns, use sites, and application methods associated with EUP 85004-EUP-1 do not include direct application to aquatic environments. In the unlikely event that *Pasteuria usgae* is transferred to surface or ground water intended for eventual human consumption, the microbe would not survive the conditions water is subjected to in a drinking water treatment facility, including flocculation, chlorination, pH adjustments, and/or filtration. Even if oral exposure should occur through drinking water, the Agency concludes that there is a reasonable certainty that no harm will result from the exposure to the residues of *Pasteuria usgae* in all the anticipated drinking water

exposures because of the lack of acute oral toxicity/pathogenicity to mammals and the host-specific nature of the microbe, as previously described.

B. Other Non-Occupational Exposure

Potential non-occupational dermal or inhalation exposure is considered unlikely for this distinctly agricultural use with specific application timing and methods.

1. *Dermal exposure*. Non-occupational dermal exposure to *Pasteuria usgae*, when used as labeled and according to the terms of EUP 85004-EUP-1, is expected to be negligible because the use is limited to agricultural settings. Additionally, the methods and timing of application explained in the program description for EUP 85004-EUP-1 should make strawberry exposure to *Pasteuria usgae* unlikely. If non-occupational dermal exposure were to occur through treated food commodities, the risk posed by this low toxicity microbe is likely to be minimal based on the dermal toxicity test described in Unit III.

2. *Inhalation exposure*. Non-occupational inhalation exposure to *Pasteuria usgae*, when used as labeled and according to the terms of EUP 85004-EUP-1, is expected to be negligible because the use is limited to agricultural settings. Additionally, the methods and timing of application allow for sufficient drying of any treated commodities (should exposure to *Pasteuria usgae* even occur) prior to distribution to consumers, which further reduces the possibility for non-occupational inhalation exposure. If non-occupational inhalation exposure were to occur through treated food commodities, the risk posed by this low toxicity microbe is likely to be minimal based on the pulmonary toxicity and pathogenicity test described in Unit III.

V. Cumulative Effects

Section 408(b)(2)(D)(v) of the FFDCA requires the Agency to consider the cumulative effects of exposure to *Pasteuria usgae* and to other substances that have a common mechanism of toxicity. These considerations include the possible cumulative effects of such residues on infants and children. As demonstrated in Unit III, *Pasteuria usgae* is not toxic or pathogenic to mammals via any of the routes of exposure examined. Consequently, since this microbial pesticide has no demonstrated toxicity and is specific to the sting nematode, there is no reason to anticipate cumulative effects from the residues of this product with other related microbial pesticides.

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

FFDCA section 408(b)(2)(C) provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) 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 unless EPA determines that a different margin of safety will be safe for infants and children. Margins of exposure (safety), which are often referred to as uncertainty factors, are incorporated into EPA risk assessments either directly or through the use of a margin of exposure analysis, or by using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk.

Based on the acute toxicity and pathogenicity data discussed in Unit III, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to the residues of *Pasteuria usgae*. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because the data available on *Pasteuria usgae* do not demonstrate toxic, pathogenic, or infective potential to mammals. Thus, there are no threshold effects of concern and, as a result, the provision requiring an additional margin of safety does not apply. Further, the considerations of consumption patterns, special susceptibility, and cumulative effects do not apply to pesticides without a demonstrated significant adverse effect.

VII. Other Considerations

A. Endocrine Disruptors

Section 408(p) of the FFDCA requires EPA to develop a screening program to determine whether certain substances (including all pesticide active and other ingredients) ''may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect as the Administrator may designate.'' Following the recommendations of its Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), EPA determined that there were scientific bases for including, as part of its program, androgen and thyroid hormone systems, in addition to the estrogen hormone system. EPA also adopted EDSTAC's recommendation that the Program include evaluations of potential effects on wildlife.

The Agency has no knowledge of *Pasteuria usgae* being an endocrine disruptor, nor is this microbe related to any class of known endocrine disruptors. Following several routes of exposure in rodents, the Tier I toxicology data indicated that the immune system was still intact. However, due to the difficulties in recovering *Pasteuria usgae*, clearance could not be determined; nevertheless, there is no reason to believe that additional data, specifically on the endocrine effects of this microbial pesticide, are required at this time. Consequently, endocrine-related concerns did not impact the Agency's safety finding for *Pasteuria usgae*. When the appropriate screening and/or testing protocols being considered under the Agency's Endocrine Disruptor Screening Program (EDSP) have been developed and vetted, *Pasteuria usgae* may be subjected to additional screening and/or testing to better characterize effects related to endocrine disruption.

B. Analytical Method(s)

The Agency is establishing a temporary exemption from the requirement of a tolerance without any numerical limitation; therefore, the Agency has concluded that an analytical method is not required for enforcement purposes for *Pasteuria usgae*.

C. Codex Maximum Residue Level

No Codex maximum residue level exists for *Pasteuria usgae*.

VIII. Statutory and Executive Order Reviews

This final rule establishes a temporary exemption from the requirement of a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety*

Risks (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the temporary exemption from the requirement of a tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

IX. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: July 22, 2009.

Debra Edwards,

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), 346a and 371.

■ 2. Section 180.1290 is added to subpart D to read as follows:

§ 180.1290 *Pasteuria usgae***; temporary exemption from the requirement of a tolerance.**

Pasteuria usgae is temporarily exempt from the requirement of a tolerance when applied/used as a nematicide on strawberries in accordance with the terms of EUP 85004-EUP-1. This temporary exemption from the requirement of a tolerance expires and is revoked on December 31, 2010.

[FR Doc. E9–18472 Filed 8–4–09; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 599

[Docket No. NHTSA–2009–0120]

RIN 2127–AK54; Notice 1

Requirements and Procedures for Consumer Assistance To Recycle and Save Program

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule amends the regulation implementing the Consumer Assistance to Recycle and Save (CARS) Program, published on July 29, 2009 in the Federal Register, under the CARS Act (Pub. L. 111–32). The rule clarifies the insurance eligibility requirements for trade-in vehicles under the CARS program. The rule makes substantive changes and a conforming amendment related to the timing for disabling trade-in vehicle engines. The rule also makes a technical amendment to the requirements and procedures for identifying salvage auctions and disposal facilities. Finally, we provide a clarification related to the insurance requirement under the CARS Act.

DATES: This final rule is effective August 5, 2009. *Petitions:* If you wish to petition for reconsideration of this rule, your petition must be received by September 21, 2009.

ADDRESSES: If you submit a petition for reconsideration of this rule, you should refer in your petition to the docket number of this document and submit your petition to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590.

The petition will be placed in the public docket. Anyone is able to search the electronic form of all documents received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review the complete User Notice and Privacy Notice for Regulations.gov at *http://www.regulations.gov/search/footer/privacyanduse.jsp.*

FOR FURTHER INFORMATION CONTACT: For questions, you may call David Bonelli, NHTSA Office of Chief Counsel, telephone (202) 366–5834.

SUPPLEMENTARY INFORMATION: This final rule amends the regulation implementing the Consumer Assistance to Recycle and Save (CARS) Program, published on July 29, 2009 (74 FR 37878), under the CARS Act (Pub. L. 111–32). The rule makes substantive changes and a conforming amendment related to the timing for disabling trade-in vehicle engines. The rule also makes a technical amendment to the requirements and procedures for identifying salvage auctions and disposal facilities. Finally, the agency clarifies the application of the insurance requirement under the CARS Act.

a. Engine Disablement

The rule currently requires a dealer that receives an eligible trade-in vehicle under the CARS program to disable that vehicle's engine prior to submitting an application for reimbursement and prior to transferring the vehicle to a disposal facility. That requirement is