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 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.

VII. 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: August 11, 2006.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.566 is amended by removing paragraph (a)(1), by redesignating paragraph (a)(2) as paragraph (a)(1), by revising the table in newly redesignated paragraph (a)(1), and by redesignating paragraphs (a)(3) and (a)(4) as paragraphs (a)(2) and (a)(3), respectively, to read as follows:

§ 180.566 Fenpyroximate; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
Almond, hulls	3.0
Citrus, dried pulp	2.5
Citrus, oil	10
Cotton, gin byproducts	10
Cotton undelinted seed	0.10
Fruit, citrus, group 10	0.60
Fruit, pome, group 11	0.40
Grape	1.0
Hop, dried cones	10
Nut, tree, group 14	0.10
Peppermint, tops	7.0
Pistachio	0.10
Spearmint, tops	7.0

* * * * *

[FR Doc. E6–13761 Filed 8–22–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0561; FRL–8084–3]

Phosphorous Acid; 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 phosphorous acid and its ammonium, sodium, and potassium salts in or all food commodities to allow for post-harvest application to stored potatoes at 35,600 parts per million (ppm) or less of phosphorus acid. This exemption is being issued at EPA's own initiative 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 phosphorous acid and its ammonium, sodium, and potassium salts.

DATES: This regulation is effective August 23, 2006. Objections and requests for hearings must be received on or before September 7, 2006, 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–2006–0561. All documents in the docket are listed in the index for the docket. 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 Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Linda Hollis, Biopesticides and

Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8733; e-mail address: *hollis.linda@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 an electronic copy of this **Federal Register** document through the electronic docket 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 pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of 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. 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–2006–0561 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 September 7, 2006.

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–2006–0561, 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.

II. Background and Statutory Findings

In the **Federal Register** of June 28, 2006 (71 FR 36731–36736) (FRL–8075–5), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the Agency initiated proposed rule. The proposed rule proposed to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for residues of phosphorous acid and its ammonium, sodium and potassium salt. There were no comments received in response to the Agency initiated proposed rule.

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), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.... '' Additionally, section 408(b)(2)(D) of 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.

The toxicity profile for phosphorous acid and its ammonium, potassium and sodium salts has already been assessed for its pesticidal use by the Agency and published in support of the tolerance exemption for residues of phosphorous acid in or on all food commodities when used as an agricultural fungicide. See 65 FR 59346 (October 5, 2000). For the purposes of this tolerance exemption amendment, the Agency has relied on the data and/or information previously submitted and has reassessed that data in order to evaluate the request to add post-harvest uses to the tolerance exemption. Additionally, the Agency has reviewed publicly available data and information on phosphoric acid, which is chemically and structurally similar to phosphorous acid. The Agency believes that in combination,

the data and other information relied upon for this tolerance exemption supports its conclusion that there is reasonable certainty of no harm that will result from the post-harvest treatment of potatoes with phosphorous acid when used according to the recommended application rate.

The technical grade of the active ingredient (TGAI) of phosphorous acid has also been fully characterized and assessed by the Agency in the Mineral Acids RED (December 1993) since it is an ingredient which falls within the class of compounds known as the mineral acids. Information on phosphorous acid indicates that it is classified in Toxicity Category III for the oral and dermal routes of exposure, and that it is corrosive to the eyes and skin. The corrosive nature of concentrated or technical grade phosphorous acid is not of a concern because phosphorus acid is applied at very dilute solutions such as 0.25 pounds of phosphorus acid per ton of stored potatoes. Phosphorous acid as applied at such very dilute rates is only slightly irritating to the skin. Further, when applied at such a permissible application rate, the residues of the applied phosphorous acid solution have an acute toxicity that is several hundred times lower than the acute toxicity of phosphorous acid in a 100% pure form.

As mentioned above, the Agency, on its own initiative, re-examined the previously reviewed toxicity data on an end use product that contains 35.6% phosphorus acid by weight and would be applied at 0.25 pounds of active ingredient per ton of stored potatoes. The results demonstrated that there is a margin of exposure of nearly 1,000 for children or the equivalent of a 30 kilogram (kg) child consuming 932 pounds of potatoes at one time. This large margin of exposure provides reasonable certainty of no harm at application rates in excess of that for the reviewed end use product. Specifically, an end use product containing 53.8% phosphorous acid by volume (or 35.6% phosphorus acid by weight) was tested on rats at > 5,000 milligrams/kilogram of bodyweight (mg/kg bodyweight). The total amount of phosphorous acid that would be consumed for each kg of potatoes based on a 30 kg child was calculated. Based on these calculations the acute oral toxicity was estimated to be equivalvent to 1,780 mg PA/kg bodyweight for a 30 kg child. This is a conservative scenario which assumes that all of the phosphorous acid that is applied to stored potatoes will remain on the crop such that a 30 kg child would need to consume 424 kg of potatoes (to include peel and flesh) in one sitting. The Agency further assumed that there are 2.2lbs/kg of potatoes which would mean that a child would need to consume 932 pounds of potatoes that have been treated post-harvest with phosphorous acid in one sitting to achieve the equivalent of a limit dose in laboratory animals. This is a margin of exposure of nearly a thousandfold.

The toxicological profile of a solution containing 53.8% phosphorous acid is briefly summarized below.

1. *Acute oral (rat) 449404–04.* LD_{50} > *5,000 mg/kg body weight (53.8% phosphorous acid aqueous solution*). The test material is classified as a Toxicity Category IV for acute oral toxicity which demonstrates low toxicity. These results also demonstrate that a dilution of the active ingredient significantly decreases the order of toxicity as compared to the technical grade of the active ingredient (TGAI) and supports the Agency conclusion that use of the proposed end-use product eliminates the potential of the active ingredient to cause acute toxic effects. There were no adverse effects reported at 5,000 mg/kg.

2. *Acute dermal (rat) 449404–05.* LD_{50} > *5,000 mg/kg body weight (53.8% phosphorous acid aqueous solution*). The test material is classified as a Toxicity Category IV for acute dermal toxicity and demonstrates that a dilution of the active ingredient significantly decreases the order of toxicity as compared to the TGAI and supports the Agency conclusion that use of the proposed end-use product will be slightly irritating to the skin.

3. *Acute inhalation (rat) 449404–06.* LC_{50} > *2.06 mg/L (53.8% phosphorous acid aqueous solution*. The test material is classified as a Toxicity Category IV for acute inhalation toxicity and demonstrates that a dilution of the active ingredient to a level that is comparable to concentration of phoshporous acid in the proposed end use product will not cause acute inhalation effects at greater than 2.06 milligrams/liter (mg/L).

4. *Developmental/reproductive effects, chronic effects and carcinogenicity*. There is adequate information available from literature sources to characterize the toxicity of phosphorous acid. Phosphorous acid can affect human health through inhalation of mist, ingestion, and contact with the skin and eyes. In a concentrated form, it will cause corrosive effects (burns or irreversible damage) to the eyes, skin, throat, digestive tract, upper respiratory tract and nose. Signs of overexposure to this chemical are severe burning of eyes and skin, possible nausea and vomiting, coughing, burning and tightness of the chest and shortness of breath. Based on corrosivity and the current use patterns for the mineral acids, EPA did not require these studies as part of the Reregistration Eligibility Decision (RED) on the Mineral Acids (EPA 738–R–029; December 1993).

A typical end use product was tested for acute toxicity. As described above, a 53.8% phosphorous acid product did not cause acute toxicity at > 5,000 mg/kg bodyweight. This product would be further diluted when applied to stored potatoes so that something on the order of a quarter of a pound of phosphorous acid would be applied to a ton of stored potatoes. Calculated estimates of the residue from such an application would give a margin of exposure near 1,000 for young children.

The Agency concludes therefore that the primary hazards such as corrosivity and irritation that are associated with concentrated phosphorous acid are significantly reduced when used as a post-harvest treatment on potatoes at dilute application rates such as those in the typical end use product tested and evaluated by the Agency.

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

The primary issue for adding post-harvest applications to a tolerance exemption is whether such application causes any new exposure that would not be safe. In order to evaluate that issue, the Agency relied on the existing toxicology data already reviewed on phosphorous acid to conduct a conservative dietary exposure and risk assessment to evaluate any additional risk that might result from post-harvest application of this chemical. In the absence of acute oral studies and any magnitude of residue data, the Agency based it's risk assessment on default assumptions, (i.e. information from the inhalation data base was used to compare to dietary risks, a common approach in the Agency), to ensure that the maximum application rates will not result in unacceptable dietary risks. As a result of this risk assessment, the Agency concludes that the use of phosphorous acid as a post-harvest

treatment to stored potatoes at the recommended application rate will not add any new exposures or risks and is considered safe.

Phosphorous acid rapidly dissociates to form hydrogen and phosphite ions when applied to growing crops in the environment and therefore, it has already been established that no dietary exposure is expected from pre-harvest applications. The degradates of phosphorous acid, hydrogen and phosphite ions are important nutrients for plants and animals. Formation of these degradates however, may be compromised when phosphorous acid is applied as a post-harvest treatment. Since post-harvest treatment of phosphorous acid to potatoes is likely to occur in indoor storage facilities, the oxidation process of phosphorous acid will most likely be slowed down. The fact that the phosphorous acid at the time of post-harvest treatment has not been oxidized to its degradates is clear and it is unknown how much this oxidation process reduces the potential dietary exposure to phosphorous acid under the conditions of post-harvest treatment. However, even with these uncertainties, the Agency believes that when phosphorous acid is used as a post-harvest treatment at the recommended application rate, the remaining residues of PA on stored potatoes will not increase toxicity or add any new dietary exposure or risks and the toxicity of phosphorous acid would still be classified in category IV (which is low toxicity) and will be safe.

1. *Food.* The Agency has determined that post-harvest treatment of phosphorous acid to stored potatoes at the typical application rate evaluated by the Agency may reduce any new anticipated exposure to phosphorous acid. However, even if dietary exposure is not reduced, the Agency believes, based on its reassessment of the data and information, that post-harvest application of phosphorous acid to potatoes is safe.

2. *Drinking water exposure.* No significant drinking water exposure is expected to result from phosphorous acid when applied as a post-harvest treatment to potatoes because phosphorous acid rapidly degrades, is very soluble in water and is applied in storage facilities.

B. Other Non-Occupational Exposure

There are no residential, school or day care uses proposed for this product. Since the proposed use pattern is for agricultural food crops and post-harvest treatment on potatoes, the potential for non-occupational, non-dietary exposures to phosphorous acid by the general population, including infants and children, is highly unlikely. Further, even if persons were exposed via the non-occupational route, the Agency believes that the low toxicity from a dilute application such as the one evaluated by the Agency is safe and the primary hazards associated with concentrated phosphorous acid (corrosivity and irritation) will be significantly reduced because the end use products are diluted and the residues following application are very low.

V. Cumulative Effects

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

BPPD has considered the potential for cumulative effects of phosphorous acid and other substances in relation to a common mechanism of toxicity. phosphorous acid may share a common metabolic mechanism with other salts of phosphorous acid (such as calcium); however, due to the low order of toxicity associated with and lack of reported dietary toxicity associated with the use of phosphorous fertilizers on crops, no cumulative effect from the use of phosphorous acid is expected.

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

1. *U.S. population.* There is reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of phosphorous acid as a result of preharvest and post-harvest uses, as that toxicity and exposure is expected to be minimal. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. This chemical will be applied as a fungicide to agricultural food crops and as a post-harvest treatment to stored potatoes at 35,600 ppm or less. There is very little potential for dietary exposure to phosphorous acid, exposure in drinking water, and from non-dietary, non-occupational exposures. Once released into the environment, the chemical rapidly dissociates to form hydrogen and phosphite ions, important nutrients for plants and animals. While the formation of these degradates may be compromised when phosphorous acid is applied as a post-harvest treatment, the recommended application rate will significantly reduce any new dietary exposure or risks and is considered to be safe.

Many phosphite salts are generally recognized as safe (GRAS). Therefore, the health risk to humans is negligible based on the low toxicity of these ions and a low application rate and magnitude of dilution for post-harvest use of the active ingredient, and one can conclude that there is a reasonable certainty that no harm will result from aggregate exposure to phosphorous acid.

2. *Infants and children.* FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold margin of exposure (MOE) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure, unless EPA determines that a different MOE will be safe for infants and children. Margins of exposure which are often referred to as uncertainty (safety) factors, are incorporated into EPA risk assessments either directly, or through the use of a MOE analysis, or by using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk. In this instance, based on all reliable available information the Agency has reviewed on phosphorous acid, the Agency concludes that the additional MOE is not necessary to protect infants and children and that not adding any additional MOE will be safe for infants and children. Aggregate exposure to phosphorous acid is expected to be minimal. There is very little potential for exposure to phosphorous acid in drinking water and from non-dietary, non-occupational exposures. This chemical will be applied preharvest to agricultural food crops and as a post-harvest treatment on potatoes. Once released into the environment, the chemical rapidly dissociates to form hydrogen and phosphite ions. The hydrogen ions affect pH, but this is moderated by natural means. Many phosphite salts are ''GRAS''. Therefore, the health risk to humans is negligible based on the low toxicity of dilute applications of phosphorous acid. One can conclude that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to phosphorous acid residues.

VII. Other Considerations

A. Endocrine Disruptors

EPA is required under section 408(p) of FFDCA, as amended by FQPA, 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 other such endocrine effects as the Administrator may designate.'' Following the recommendations of its Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), EPA determined that there was scientific basis for including, as part of the program, the 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 in wildlife. For pesticide chemicals, EPA will use FIFRA and, to the extent that effects in wildlife may help determine whether a substance may have an effect in humans, FFDCA authority to require the wildlife evaluations. As the science develops and resources allow, screening of additional hormone systems may be added to the Endocrine Disruptor Screening Program (EDSP).

At this time, the Agency is not requiring information on the endocrine effects of this active ingredient, phosphorous acid. Based on the weight-of-the-evidence of available data and the absence of any reports to the Agency of sensitivity or other adverse effects, no endocrine system related effects are identified for phosphorous acid and none are expected because of its use. To date there is no evidence that phosphorous acid affects the immune system, functions in a manner similar to any known hormone, or that it acts as an endocrine disruptor. Thus, there is no impact via endocrine-related effects on the Agency's safety finding set forth in this rule amending the phosphorous acid exemption from the requirement of a tolerance.

B. Analytical Method(s)

Through this action, the Agency is amending the existing exemption from the requirement of a tolerance for phosphorous acid to include post-harvest treatment on potatoes for the reasons stated above which include low toxicity to mammals and negligible exposure from the pesticidal use of products containing phosphorous acid. For the same reasons, the Agency concludes that an analytical method is not required for enforcement purposes for phosphorous acid.

C. Codex Maximum Residue Level

No maximum residue levels (MRLs) have been established for phosphorous acid by the Codex Alimentarius Commission (CODEX).

VIII. Conclusions

The Agency concludes that if products containing phosphorous acid as an active ingredient are used in accordance with label directions, there is a reasonable certainty that no harm to the U.S. population, including infants and children, will result from aggregate exposure to residues of phosphorous acid, when used as an agricultural fungicide on all food commodities or when used as a post-harvest treatment on potatoes.

IX. Statutory and Executive Order Reviews

This final rule establishes an 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 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 FFDCA, such as the 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. The Agency hereby certifies that this rule will not have significant negative economic impact on a substantial number of small entities. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of 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

X. 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: August 14, 2006.

Janet L. Andersen,

Director, Biopesticides and Pollution Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.1210 is revised to read as follows:

§ 180.1210 Phosphorous acid; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of phosphorous acid and its ammonium, sodium, and potassium salts in or on all food commodities when used as an agricultural fungicide and in or on potatoes when applied as a post-harvest treatment at 35,600 ppm or less phosphorous acid.

[FR Doc. E6–13954 Filed 8–22–06; 8:45 am]

BILLING CODE 6560–50–S

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–10, 301–11, 301–50, 301–52, 301–71, and 301–73

[FTR Amendment 2006–04; FTR Case 2005–305]

RIN 3090–AI19

Federal Travel Regulation; E-Gov Travel Service (ETS) and Use of Contract City-Pair Fares

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending the Federal Travel Regulation (FTR), by adding new requirements that address the use of other-than contract city pair airfares, the handling of receipts under the E-Gov Travel Service (ETS) environment, and new responsibilities for reviewing officials. This final rule also introduces and defines the term ''online self-service booking tool'' and provides for exceptions under certain circumstances to the required use of an agency's current Travel Management Service (TMS) or ETS once the agency has fully deployed ETS. Finally, this final rule requires agencies to develop and submit upon request to the ETS Program Management Office, a plan for maximizing the agency's adoption rate (*i.e.*, achieving the highest possible rate of use of the agency's online self-service booking tool) once the agency has fully deployed ETS. The explanation of changes is addressed in the supplementary information below. The FTR and any corresponding documents may be accessed at GSA's Web site at *http://www.gsa.gov/ftr.*

DATES: Effective Date: September 22, 2006.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat (VIR), Room 4035, GS Building, Washington, DC, 20405, (202) 208–7312, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Umeki Gray Thorne, Office of Governmentwide Policy, Travel Management Policy, at (202) 208–7636. Please cite FTR Amendment 2006–04; FTR case 2005–305.

SUPPLEMENTARY INFORMATION:

Background

This final rule amends the Federal Travel Regulation as follows:

• Sections 301–10.106 and 301–10.107 are redesignated as sections 301–10.105 and 301–10.106, respectively.

• Newly redesignated section 301–10.106 language is revised by removing exceptions to the use of a contract city-pair fare and incorporating them into new section 301–10.107. Note to section 301–10.106 indicates that employees of the Government of the District of Columbia, with the exception of the District of Columbia Courts, are not eligible to use contract city-pair fares even though these employees otherwise may be covered by the FTR.

• New section 301–10.107 ''Are there any exceptions to the use of a contract city-pair fare,'' incorporates exceptions to use of a contract city-pair fare (formerly contained in section 301–10.107, redesignated as section 301–10.106) for agency consideration in deciding whether to approve the use of other-than a contract city-pair fare. Note 1 to section 301–10.107 (previously Note 2 to this section) is revised to state that any group of 10 or more passengers traveling together on the same day, on the same flight, for the same mission requiring group integrity and identified as a group by the travel management system upon booking, may request contract city-pair service on an optional basis.

Note 2 to section 301–10.107 is added to clarify that contractors are not eligible to use contract city-pair fares in the performance of their contract.

Note 3 to section 301–10.107 is added to encourage agencies to optimize savings from the contract city pair program by comparing the cost savings achieved by use of capacity-controlled coach class contract city-pair fares (MCA, QCA, VCA, etc.) to the unrestricted coach class contract fare (YCA), when capacity-controlled fares are available and meet mission needs.

• Section 301–10.108 is amended by informing travelers that they are required to document on their travel authorization the approval and use of a non-contract city-pair air fare. This section also adds a note to clarify that air carrier preference is not a valid reason for approving the use of a non-contract airfare.

• Section 301–11.25 is revised to address the handling of receipts when an agency has fully deployed ETS.

• The section heading for section 301–50.3 is revised to include the term ''TMS'' and references to exceptions are included in the text.

• Sections 301–50.4 is revised to add TMS in its section heading and to incorporate when an exception to the use of an agency's current TMS may be granted.

• Section 50.6 is redesignated as section 50.8.