

## IX. Statutory and Executive Order Reviews

This final rule establishes an exemption from the requirement of a tolerance under section 408(d) of FFDCFA 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, entitled *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 FFDCFA, 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. 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 FFDCFA. 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: September 11, 2006.

**James J. 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), 346a and 371.

■ 2. Section 180.1272 is added to subpart D to read as follows:

### § 180.1272 *Pantoea agglomerans* strain E325; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of *Pantoea agglomerans* strain E325 when used on apples and pears.

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

[FEMA Docket No. D–7642]

### Withdrawal of Final Flood Elevation Determination for the Listed Communities in Yuma and Coconino Counties, AZ

**AGENCY:** Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS).

**ACTION:** Final rule; withdrawal.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) withdraws the final flood elevation determination published in 71 FR 33647, June 12, 2006 for the Unincorporated Areas of Yuma County and Cities of San Luis and Yuma, and the Unincorporated Areas of Coconino County, and City of Flagstaff, Arizona, hereafter referred to as “listed communities.” A final flood elevation determination will be made at a later date.

**DATES:** *Effective Date:* This rule is effective September 20, 2006.

**FOR FURTHER INFORMATION CONTACT:** William R. Blanton, Jr., CFM, Chief, Engineering Management Section, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646-3151.

**SUPPLEMENTARY INFORMATION:** On March 29, 2006, FEMA issued a letter to the Unincorporated Areas of Yuma County and Cities of San Luis and Yuma, and the Unincorporated Areas of Coconino County, and City of Flagstaff, Arizona, hereafter referred to as "listed communities" finalizing the flood elevation determinations. In addition, the March 29, 2006 letter established a September 29, 2006, effective date for the Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) for the listed communities. During the final processing of the FIS and FIRM it was determined that there are levee structures within the listed counties that are shown as providing protection against the 1% annual chance flood event. FEMA will only recognize those levee systems that meet, and continue to meet, minimum design, operation, and maintenance standards. 44 CFR 65.10 describes the information needed to recognize whether a levee system provides protection from the base flood event. The required information must be supplied to FEMA by the community or other party seeking recognition of the levee system. To acquire FEMA's recognition that a levee system protects an area against the base flood event, a community or levee owner must supply FEMA with such data as certification and design criteria (including information on freeboard, closures, embankment protection, embankment and foundation stability, settlement, interior drainage, etc.), and operation and maintenance plans.

Until the aforementioned levee information is submitted to FEMA, the final flood elevation published in 71 FR 33647, June 12, 2006 for the listed communities is hereby withdrawn in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104. Until further notice, the release of the FIS and FIRM for the listed communities has been postponed.

*National Environmental Policy Act.* This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

#### List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

#### PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

#### § 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended to withdraw the following:

The final flood elevation determination published in 71 FR 33647, June 12, 2006 for the Unincorporated Areas of Yuma County and Cities of San Luis and Yuma, and the Unincorporated Areas of Coconino County, and City of Flagstaff, Arizona.

Dated: September 13, 2006.

**David I. Maurstad,**

*Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.*

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#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 06-1756; MB Docket No. 05-142; RM-11220]

#### Radio Broadcasting Services; Roma, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; denial of petition for reconsideration.

**SUMMARY:** The Audio Division has denied the petition for reconsideration of La Voz Latino ("LVL"), seeking reconsideration of the Audio Division's

dismissal of its counterproposal in the proceeding as untimely. In this *Memorandum Opinion and Order*, the Audio Division denied LVL's petition for reconsideration of the dismissal of LVL's counterproposal.

**FOR FURTHER INFORMATION CONTACT:** Deborah Dupont, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Memorandum Opinion and Order*, MB Docket No. 05-142, adopted August 31, 2006, and released September 5, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (800) 378-3160, or via the company's Web site, <http://www.bcpweb.com>. This document is not subject to the Congressional Review Act. The Commission is, therefore, not required to send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see U.S.C. 801(a)(1)(A), because the petition for reconsideration was denied.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division Media Bureau.*

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#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 06-1760; MB Docket No. 06-52; RM-11318]

#### Radio Broadcasting Services; Flora, MS

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In response to a *Notice of Proposed Rule Making*, this *Report and Order* denies a Petition for Rule Making requesting that Channel 280A be allotted to Flora, Mississippi, because no party filed comments expressing an interest in the allotment. It also dismisses a Counterproposal requesting that Channel 280A be allotted to