IV. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

The final rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under E.O. 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under sections 110 and 301 of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the Comptroller General

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 the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 30, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it 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 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: September 4, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 F—California

2. Section 52.220 is amended by adding paragraph (c)(256) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(256) New and amended regulations for the following APCDs were submitted on June 23, 1998, by the Governor's designee.

(i) Incorporation by reference.

(A) Bay Area Air Quality Management District.

(*1*) Regulation 1, revised on November 3, 1993.

* * * * *

[FR Doc. 98–25891 Filed 9–28–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300722; FRL 6032–4]

RIN 2070–AB78

Acrylic Acid, Styrene, α-Methyl Styrene Copolymer, Ammonium Salt; and Styrene, 2-Ethylhexyl Acrylate, Butyl Acrylate Copolymer; Exemption from the Requirements 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 acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt; and styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer when used as inert ingredients (encapsulating agent, dispensers, resins, fibers, and beads) in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, and animals. Westvaco Corporation, Chemical Division requested these exemptions from the requirement of a tolerance under the Federal Food, Drug and

Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective September 29, 1998. Objections and requests for hearings must be received by EPA on or before November 30, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, OPP–300722, must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, OPP–300722, must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number OPP–300722. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Bipin Gandhi, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 707A, Crystal Mall #2, 1921 Jefferson Davis Hwy, Arlington, VA, (703) 308–8380; gandhi.bipin@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 20, 1998 (63 FR 27727) (FRL 5788–8), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a(e) announcing the filing of pesticide petition (PP) 6E4749 and 6E4750 for a tolerance exemption by Westvaco Corporation, Chemical Division, 3950 Faber Place Drive, North Charleston, SC 29405. This notice included a summary of the petition prepared by Westvaco Corporation, Chemical Division, the petitioner. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.1001(c) and (e) be amended by establishing an exemption from the requirement of a tolerance for residues of acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt; and styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer when used as an inert ingredient (encapsulating agent, dispensers, resins, fibers, and beads) in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, and animals.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the FFDCA, 21 U.S.C. 301 *et seq*., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq*. The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures.

New section 408(c)(2)(A)(i) allows EPA to establish an exemption from the requirement of a tolerance for a pesticide chemical residue on food only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) 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, but does not include occupational exposure. Section 408(c)(2)(B) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of 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'' and specifies factors EPA is to consider in establishing an exemption.

II. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply non-toxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert ingredient in conjunction with possible exposure to residues of the inert ingredient in food, drinking water, and other non-occupational exposures. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt; and styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance exemptions for residues on acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt; and styrene, 2-ethylhexyl acrylate, butyl

acrylate copolymer on growing crops, raw agricultural commodities after harvest, and animals. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

The data submitted in the petitions and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient.

A. Toxicological Profile

In the case of certain chemical substances that are defined as ''polymers,'' the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting these criteria will present minimal or no risk. Acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt; and styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer conform to the definition of polymer given in 40 CFR 723.250(b) and meet the following criteria that are used to identify low-risk polymers:

Acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt:

1. Acrylic acid, styrene, α-methyl styrene copolymer ammonium salt is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. Acrylic acid, styrene, α-methyl styrene copolymer ammonium salt contains as an integral part of its composition the atomic elements carbon hydrogen, and oxygen.

3. Acrylic acid, styrene, α-methyl styrene copolymer ammonium salt does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(2)(ii).

4. Acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt is not designed, nor is it reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. Acrylic acid, styrene, α-methyl styrene copolymer ammonium salt is not manufactured or imported from monomers and/or other reactants that are not already included on the Toxic Substance Control Act (TSCA) Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. Acrylic acid, styrene, α-methyl styrene copolymer ammonium salt is not a water absorbing polymer.

7. Acrylic acid, styrene, α-methyl styrene copolymer ammonium salt contains carboxylic acid as the only reactive functional group.

8. The minimum number-average molecular weight of the acrylic acid, styrene, α-methyl styrene copolymer is listed as 1,250 daltons. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

9. The acrylic acid, styrene, α-methyl styrene copolymer has a number-average molecular weight of 1,250 and contains less than 10% oligomeric material below the molecular weight 500 and less than 25% oligomeric material below the molecular weight 1,000.

In addition, acrylic acid, styrene, α-methyl styrene copolymer is approved by the Food and Drug Administration (FDA) under 21 CFR for contact with food as a component in adhesives (21 CFR 175.105), coatings (21 CFR 175.300), and paper and paperboard (21 CFR 176.170). The ammonium hydroxide utilized to form the ammonium salt is listed in 21 CFR 184.1139 under the section, ''Direct food substances affirmed as generally recognized as safe.''

Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer:

1. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer contains as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250 (d)(2)(ii).

4. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer is not designed, nor is it reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer is not manufactured or imported from monomers and/or other reactants that are not already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer is not a water absorbing polymer.

7. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer contains only the carboxylic acid ester group as the reactive functional group.

8. The minimum number-average molecular weight of styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer is listed as 4,200 daltons. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the GI tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

9. Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer has a number-average molecular weight of 4,200 and contains less than 10% oligomeric material below the molecular weight 500 and less than 25% oligomeric material below the molecular weight 1,000.

B. Aggregate Exposure

Acrylic acid, styrene, α-methyl styrene copolymer ammonium salt formulations have been in commerce since the mid 1960's. The copolymer is ubiquitous in our every day environment and as it is commonly used in flexographic printing inks and coatings, such as on newspapers, corrugated boxes (e.g. pizza boxes), and disposable drinking cups.

Although exposure to acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt may occur through dietary (e.g., food wrapping containing copolymer) and non-occupational (e.g., printed articles) sources, the chemical characteristics of acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt lead to the conclusion that there is a reasonable certainty of no

harm from aggregate exposure to the polymer. Given the existing widespread and historic use of acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt, any additional exposure resulting from the approval of the copolymer as an inert ingredient in pesticide formulations for use on growing crops or to raw agricultural commodities after harvest is not warranted.

Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer formulations have been in commerce since the mid 1960's. The copolymer is ubiquitous in our every day environment and as it is commonly used in flexographic printing inks and coatings such as on newspapers, corrugated boxes, and disposable drinking cups.

Although exposure to styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer may occur through dietary (e.g., food wrapping containing copolymer) and non-occupational (e.g., printed articles) sources, the chemical characteristics of styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer lead to the conclusion that there is a reasonable certainty of no harm from aggregate exposure to the polymer. Given the existing widespread and historic use of styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer, any additional exposure resulting from the approval of the copolymer as an inert ingredient in pesticide formulations for use on growing crops or to raw agricultural commodities after harvest is not warranted.

In addition, styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer is approved by the FDA under 21 CFR for contact with food as a component in adhesives (21 CFR 175.105), coatings (21 CFR 175.300), and paper and paperboard (21 CFR 176.170).

Based on the conformance of acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt; and styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer to the criteria in Unit IV.A. of this preamble, no mammalian toxicity is anticipated from dietary, inhalation or dermal exposure to acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt; and styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer.

C. Exposures and Risks

1. *From food and feed uses, drinking water, and non-dietary exposures.* For the purposes of assessing the potential dietary exposure, EPA considered that these tolerance exemptions could be present in all raw and processed agricultural commodities and drinking water and that non-occupational, non-dietary exposure was possible. EPA concluded that, based on these chemical's categorization as a polymer conforming to the definition of a polymer under 40 CFR 723.250(b) that also meet the criteria used to identify low-risk polymers, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable.

2. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) 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.''

In the case of acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt; and styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer, the lack of expected toxicity of these substances based on its conformance to the definition of polymers as given in 40 CFR 723.250(b) as well as the criteria that identify low-risk polymers results in no expected cumulative effects; a cumulative risk assessment is therefore not necessary.

D. Aggregate Risks and Determination of Safety for U.S. Population

Based on these chemical's conformance to the definition of a polymer given in 40 CFR 723.250(b) as well as the criteria that are used to identify low-risk polymers, EPA concludes that there is a reasonable certainty that no harm to the U.S. population will result from aggregate exposure to acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt; and styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer. EPA believes these compounds present no dietary risk under reasonably foreseeable circumstances.

E. Aggregate Risks and Determination of Safety for Infants and Children

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre- and post-natal 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 safety are incorporated into EPA risk assessments either directly through use of a Margin of Exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

Because EPA has concluded these substances pose minimal or no risk it did not use a margin of safety analysis for assessing risk to the general population of this compound. For the same reason, application of an additional margin of safety is unnecessary.

V. Other Considerations

The Agency proposes to establish an exemption from the requirement of a tolerance without any numerical limitation; therefore, the Agency has concluded that analytical methods are not required for enforcement purposes for acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt; and styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer.

There are no Codex Alimentarius Commission (Codex), Canadian or Mexican, residue limits for acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt; and styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer.

VI. Conclusion

Therefore, an exemption from the requirement of a tolerance is established for residues of acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt; and styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by November 30, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40

CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is 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 in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (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.

VIII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number OPP–300722 (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

IX. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) 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). 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) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances 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. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected

officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

X. Submission to Congress and the Comptroller General

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 the rule in the **Federal Register**. This 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 21, 1998.

James Jones,

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. 346a and 371.

2. In §180.1001, the table in paragraphs (c) and (e) are amended by adding alphabetically the following inert ingredients to read as follows:

§180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* *	* * *	* *
Acrylic acid, styrene, α-methyl styrene Copolymer, ammonium salt (CAS Reg. No. 89678–90–0), minimum number average molecular weight (in amu) 1250.	.....	Encapsulating agent, dispensers, resins, fibers and beads
* *	* * *	* *
Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer (CAS Reg. No. 30795–23–4), minimum number average molecular weight (in amu) 4200.	.....	Encapsulating agent, dispensers, resins, fibers and beads
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Inert ingredients	Limits	Uses
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Acrylic acid, styrene, α-methyl styrene copolymer, ammonium salt (CAS Reg. No. 89678–90–0), minimum number average molecular weight (in amu) 1250.	.....	Encapsulating agent, dispensers, resins, fibers and beads
* *	* * *	* *
Styrene, 2-ethylhexyl acrylate, butyl acrylate copolymer (CAS Reg. No. 30795–23–4), minimum number average molecular weight (in amu) 4200.	.....	Encapsulating agent, dispensers, resins, fibers and beads
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