to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 July 15, 2002. 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, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 19, 2002.

Gary Gulezian,

Acting Regional Administrator, Region 5.

For the reasons set out in the preamble, 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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(166) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(166) On November 6, 2001, the State of Illinois submitted revisions to its emission reporting rules, restructuring these rules and adding hazardous air pollutant emission reporting for sources in Illinois' Emission Reduction Market System.

(i) Incorporation by reference.

(A) Revised rules of 35 Ill. Admin. Code Part 254, including new or amended sections 254.101, 254.102, 254.103, 254.120, 254.132, 254.134, 254.135, 254.136, 254.137, 254.138, 254.203, 254.204, 254.303, 254.306, and 254.501, effective July 17, 2001, retention of section 254.133, and the repeal of other previously approved sections of 35 Ill. Admin. Code 254. Amended or adopted at 25 Ill. Reg. 9856. Effective July 17, 2001.

[FR Doc. 02–12006 Filed 5–14–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0031; FRL–6835–5]

Silica, Amorphous, Fumed (Crystalline Free); 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 silica, amorphous, fumed (crystalline free) (CAS Reg. No. 112945–52–5) also known as silicon dioxide fumed amorphous when used as an inert ingredient when applied to animals. Cabot Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996, requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of silica, amorphous, fumed (crystalline free). By law, EPA is required to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996, by August 2002. Upon publication of this final rule, one tolerance reassesment for the existing tolerance exemption in 40 CFR 180.1001(c) for silicon dioxide fumed amorphous will be counted toward the August 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

DATES: This regulation is effective May 15, 2002. Objections and requests for hearings, identified by docket control number OPP–2002–0031, must be received on or before July 15, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–2002–0031 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Treva Alston, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8373; e-mail address: Treva.Alston@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

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 the table could also be affected. The North American

Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**''—Environmental Documents. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0031. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of June 30, 2000 (65 FR 40637) (FRL–6592–6), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA Public Law 104–170), announcing the filing of a pesticide petition (PP 0E6109) by Cabot Corporation, Route 36W., Tuscola, IL 61953. This notice included a summary of the petition prepared by the petitioner. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.1001(e) be amended by establishing an exemption from the requirement of a tolerance for residues of silica, amorphous, fumed (crystalline free).

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(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 and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

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. 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 ploymers 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 nontoxicity; 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.

IV. 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. Silica, amorphous, fumed (crystalline free) is composed of oxygen and silicon, the most abundant and second-most abundant elements in the earth's crust, respectively. Silicon almost always occurs in combination with oxygen, and a number of naturally-occurring minerals (such as quartz) are pure, or nearly pure, silicon dioxide. Silica can be divided into two types: crystalline and amorphous. The major toxicological hazard of crystalline silica is through the inhalation route of exposure. Silicosis and/or cancer can result from long-term inhalation of the crystalline form (such as crystalline quartz). However, exposure to amorphous forms of silica is not associated with silicosis or cancer. In fact, IARC (International Agency for Research on Cancer) has classified crystalline forms of silica when inhaled from occupational exposures as Group I, carcinogenic to humans. The IARC has classified amorphous forms of silica as Group 3, not classifiable as to its carcinogenicity to humans. Silica, amorphous, fumed (crystalline free) is a manufactured product. Chemically and physically it is similar to diatomateous earth.

The petitioner submitted to the Agency four acute toxicity studies (acute oral LD_{50} in the rat, acute inhalation LC_{50} in the rat, primary eye irritation in the rabbit, and primary dermal irritation in the rabbit); and four mutagenicity studies *salmonella typhimurium/mammalian* microsome mutagenicity assay (Ames), an *in vitro* unscheduled DNA synthesis (UDS) assay in rat primary heptatocytes, an *in vitro* chromosomal aberation assay in Chinese hamster ovary (CHO) Cells; and an *in vitro* CHO/HGPRT assay). There was also an evaluation of oral toxicity of fumed silica which is a metabolism and pharmacokinetics study. The results of these studies are listed below:

1. *Acute toxicity studies.* No mortalities were observed for the oral and inhalation studies. For the primary eye irritation study, there was no corneal opacity or iridial irritation in

any of the eyes. For the dermal study, there was no dermal irritation at 72 hours. For the acute toxicity study, the oral LD_{50} is >5,000 milligrams/kilograms (mg/kg). For the acute inhalation study, the LC_{50} is >2.08 mg/L. All studies are toxicity category IV.

2. *Mutagenic studies.* In all four studies there was no indication of any mutagenic activity associated with exposure to silica, amorphous, fumed (crystalline free).

3. *Oral toxicity of fumed silica.* There were no mortalities or clinical signs. There was no significant difference between the test group and the control group with respect to silica concentration in the carcass.

V. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 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).

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 in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. 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.

A. Dietary Exposure

Silica, amorphous, fumed (crystalline free) is composed of oxygen and silicon, which are the most abundant and second-most abundant elements in the earth's crust respectively. Silicon almost always occurs in combination with oxygen, and there are a number of naturally-occurring forms. For this reason, EPA has considered that silica, amorphous, fumed (crystalline free) could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure is possible.

1. *Food.* Forms of silicon dioxide are considered to be inert when ingested. There are currently FDA clearances for the use of silicon dioxide as a food additive for direct addition to food for human consumption (21 CFR 172.480) at levels up to 2% by weight. It is also used as an excipient in pharmaceuticals and in cosmetics. EPA will regulate silica, amorphous, fumed (crystalline free) only as an inert in pesticide formulations. The amount of silica, amorphous, fumed (crystalline free) that can be applied to food as a result of their use in pesticide formulations would not significantly increase the amount of silica, amorphous, fumed (crystalline free) in the food supply above those amounts permitted by FDA. Given the very low toxicity of silica, amorphous, fumed (crystalline free), there are no concerns for increased exposure.

2. *Drinking water exposure.* With various forms of silicon dioxide being abundant in nature, increased drinking water exposure from the use of silica, amorphous, fumed (crystalline free) in pesticide formulations would not be expected.

B. Other Non-Occupational Exposure

It is highly likely that silica, amorphous, fumed (crystalline free) can be used in and around the home. Given its high molecular weight (645,000 daltons), it is unlikely that it could be absorbed through the skin in sufficient amounts to cause toxicity in a residential setting. Given the nature of silica, amorphous, fumed (crystalline free) and its anticipated uses, the Agency has examined residential inhalation exposures using a screening approach. There are no concerns for inhalation exposures typical of those found in a residential scenario.

VI. Cumulative Effects

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify or revoke a tolerance or tolerance exemption, the Agency considers ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.'' Silica, amorphous, fumed (crystalline free) has demonstrated a lack of toxicity, and thus is unlikely to share a common mechanism of toxicity with any other substances.

VII. Children's Safety Factor

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 prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of silica, amorphous, fumed (crystalline free), EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VIII. Determination of Safety for U.S. Population

Silica, amorphous, fumed (crystalline free) has a demonstrated lack of toxicity. The acute toxicity studies are toxicity category IV. The mutagenicity studies are negative. Silica, amorphous, fumed (crystalline free) is not classifiable, as to its carcinogenicity however, given its amorphous nature, it is not expected to pose a carcinogenic risk. Silicas are considered to be inert when ingested, and due to the high molecular weight it is unlikely to be absorbed through the skin. There should be no concerns for human health, whether the exposure is acute, subchronic, or chronic by any route. Thus, based on the very low toxicity of silica, amorphous, fumed (crystalline free), the Agency has determined that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of silica, amorphous, fumed (crystalline free) and that a tolerance is not necessary.

IX. Other Considerations

A. Endocrine Disruptors

There is no available evidence that silica, amorphous, fumed (crystalline free) is an endocrine disruptor.

B. Analytical Method(s)

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Existing Exemptions

There is an existing exemption from the requirement of a tolerance under 40 CFR 180.1001(c) for use as flow control, anticaking, and carrier agent.

D. International Tolerances

The Agency is not aware of any country requiring a tolerance for silica, amorphous, fumed (crystalline free) nor have any CODEX Maximum Residue

Levels (MRLs) been established for any food crops at this time.

X. Conclusions

Based on the information in this preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to residues of silica, amorphous, fumed (crystalline free). Accordingly, EPA finds that exempting silica, amorphous, fumed (crystalline free) from the requirement of a tolerance will be safe.

XI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–2002–0031 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 July 15, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

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

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

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

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–2002–0031, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

XII. Regulatory Assessment Requirements

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). 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 FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq*.) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). 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.

XIII. 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 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: April 22, 2002.

Debra Edwards,

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), 346(a) and 374.

2. In § 180.1001 the table in paragraph (e) is amended by adding alphabetically the following inert ingredient to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e)* * *

Inert ingredients	Limits	Uses
* * * * *	* *	*
Silica, amorphous, fumed (crystalline free) (CAS Reg.No. 112945–52–5)	.....	Anti-caking agent, antisettling agent, flow control agent, carrier agent
* * * * *	* *	*

[FR Doc. 02–11743 Filed 5–14–02; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1037, MM Docket No. 01–165, RM–9768]

Digital Television Broadcast Service; Clarksburg, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Davis Television Clarksburg, LLC, licensee of station WVFX(TV), Clarksburg, West Virginia, substitutes DTV channel 10 for DTV channel 28 at Clarksburg. *See* 66 FR 40958, August 6, 2001. DTV channel 10 can be allotted to Clarksburg in compliance with the principle community coverage requirements of § 73.625(a) at reference coordinates 39–18–02 N. and 80–20–37 W. with a power of 30, HAAT of 260 meters and with a DTV service population of 598 thousand. Since the community of Clarksburg is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government has been obtained for this allotment.

With this action, this proceeding is terminated.

DATES: Effective June 24, 2002.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–165, adopted May 3, 2002, and released May 9, 2002. The full text of this document is available for public inspection and copying during regular business hours