DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD11–06–047]

RIN 1625–AA09

Drawbridge Operation Regulations; Steamboat Slough, Near Paintersville, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Steamboat Slough Drawbridge across Steamboat Slough, mile 11.2, near Paintersville, CA. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period. The deviation is necessary for the bridge owner, the California Department of Transportation (Caltrans), to refurbish and replace aging operating machinery.

DATES: This deviation is effective from 7 a.m. on January 16, 2007 to 5 p.m. on January 25, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (dpw), Eleventh Coast Guard District, Building 50–2, Coast Guard Island, Alameda, CA 94501–5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437–3516.

SUPPLEMENTARY INFORMATION: Caltrans requested a temporary change to the operation of the Steamboat Slough Drawbridge, mile 11.2, over Steamboat Slough, near Paintersville, CA. The Steamboat Slough Drawbridge's navigation span provides a vertical clearance of 20 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal if at least 4 hours notice is given as required by 33 CFR 117.199. Navigation on the waterway is recreational, search and rescue, and commercial traffic hauling materials for levee repair. Caltrans requested to secure the drawspan in the closed to navigation position from 7 a.m. on January 16, 2007 to 5 p.m. on January 25, 2007. During this time the drawspan motors will be refurbished and the control house replaced to ensure the continuing operation of the drawspan. This temporary deviation has been coordinated with waterway users. Caltrans has reduced the period of time the bridge will be closed to navigation to reduce the impact to levee repair in the area. Vessels that can transit the bridge while in the closed-to-navigation position may continue to do so at any time.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 29, 2006.

R.C. Lorigan,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. E7–152 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD11–06–049]

RIN 1625–AA09

Drawbridge Operation Regulations; Sacramento River, at Isleton, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Isleton Drawbridge across the Sacramento River, mile 18.7, at Isleton, CA. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period. The deviation is necessary for the bridge owner, the California Department of Transportation (Caltrans), to refurbish and replace aging operating machinery.

DATES: This deviation is effective from 7 a.m. on April 12, 2007 to 5 p.m. on April 20, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (dpw), Eleventh Coast Guard District, Building 50–2, Coast Guard Island, Alameda, CA 94501–5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437–3516.

SUPPLEMENTARY INFORMATION: Caltrans requested a temporary change to the operation of the Isleton Drawbridge, mile 18.7, over the Sacramento River, at Isleton, CA. The Isleton Drawbridge's navigation span provides a vertical clearance of 13 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal from 9 a.m. to 5 p.m., November 1 through April 30, and at all other times if at least 4 hours notice is given as required by 33 CFR 117.189. Navigation on the waterway is recreational, search and rescue, and commercial traffic hauling materials for levee repair. Caltrans requested to secure the drawspan in the closed to navigation position from 7 a.m. on April 12, 2007 to 5 p.m. on April 20, 2007. During this time the drawspan motors will be refurbished and the control house replaced to ensure the continuing operation of the drawspan. This temporary deviation has been coordinated with waterway users. Caltrans has reduced the period of time the bridge will be closed to navigation to reduce the impact to levee repair in the area. Vessels that can transit the bridge while in the closed-to-navigation position may continue to do so at any time.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 29, 2006.

R.C. Lorigan,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. E7–153 Filed 1–9–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2005–0316; FRL–8108–4]

Beauveria Bassiana HF23; 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 the microbial active ingredient *Beauveria bassiana* HF23 (*B. bassiana* HF23) on all food and feed commodities when applied/used to

treat chicken manure which will eventually be processed and used as fertilizer on agricultural crops. Jabb of the Carolinas submitted a petition to EPA 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 *B. bassiana* HF23.

DATES: This regulation is effective January 10, 2007. Objections and requests for hearings must be received on or before March 12, 2007, 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–2005–0316. 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: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8097; e-mail address: *bacchus.shanaz@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*. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gov/opptsfrs/home/guidelin.htm*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of 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. 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–2005–0316 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 March 12, 2007.

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–2005–0316, 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 December 7, 2005 (70 FR 72831) (FRL–7748–4), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 5F6960) by the consultant, SHB Scientific, P.O. Box 321, Chandler, AZ 85224–0321 on behalf of Jabb of the Carolinas, 456 E. Main Street, Pine Level, NC 27568. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *B. bassiana* HF23 on all food commodities. This notice included a summary of the petition prepared by the petitioner SHB Scientific on behalf of Jabb of the Carolinas. One comment was received in response to this publication. The commenter inquired if Diquat was included in this pesticide. The Agency's response is that Diquat is not included in the formulation.

Section 408(c)(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 exemption is ''safe.'' Section 408(c)(2)(A)(ii) of the 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 the 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.

B. bassiana HF23 is a naturally occurring ubiquitous fungus in the environment that has insecticidal properties. This strain, and other strains of *B. bassiana* that are registered as pesticides, demonstrate low toxicity potential and are not likely to harm human adults, infants, and children. The applicant has submitted an application to the Agency to register the active ingredient, *B. bassiana* HF23, as a manufacturing use product (MP) for formulation into insecticidal end-use products (EPs) and an application for an EP to control house flies in chicken manure.

This exemption from the requirement for a tolerance only applies to the proposed use of the active ingredient for chicken manure treatment. Such use would not result in direct pesticidal contact with any food or animal feed commodities. Chicken manure, treated with a pesticide containing *B. bassiana* HF23, is composted and then used on agricultural crops as a fertilizer. The fungal active ingredient does not survive temperatures greater than 37 °C (the average mammalian body temperature), and thus, would not be expected to survive the higher temperatures of composting (40–50 °C on average). See further discussion in Unit IV.A.1. Therefore, potential residues of *B. bassiana* HF23, from its use as a pesticide to control house flies in chicken manure, are not expected to exceed or be distinguishable from the naturally occurring background levels of the fungus.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of the 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 following summaries are taken from the Biopesticide and Pollution Prevention Division (BPPD) Data Evaluation Records (DERs), which are reviews performed by Agency scientists of the data submitted by the registrant for this tolerance exemption.

A. Acute Oral Toxicity (OPPTS 885.3050 Test Guideline)

A study was reviewed by the Agency to ascertain acute oral toxicity and pathogenic effects of the Technical Grade Active Ingredient (TGAI) *B. bassiana* HF23 on rats (Master Record Identification Number (MRID) 46526003; DER dated 1/31/06). Laboratory rats were treated by oral gavage with *B. bassiana* HF23 at guideline recommended doses: Males were treated with 2.10–4.20 x 10^4 colony forming units of *B. bassiana* HF23 per gram (cfu/g) of body weight; females were treated with 1.60–3.60 x 10^4 cfu/g. Untreated rats of both sexes served as controls. All of the rats, treated and untreated, survived, exhibited normal weight gain, and appeared normal throughout the study.

B. bassiana HF23 was detected in the feces of all treated animals collected on the day of dosing. The fungus was not detected in the feces, tissues, blood, and cecum contents of these animals collected 3 and 7 days later. No test organisms were detected in any of the untreated (control) animals. The data presented did not indicate any significant clinical signs in rats. At the end of the study, *B. bassiana* HF23 was not found in the following organs: Kidney, brain, liver, lungs, spleen, and cervical and mesenteric lymph nodes. Therefore, based on the presented/submitted data, the Agency has determined that the test organism is not acutely toxic, infective, or pathogenic to rats at the levels tested in this study. The active ingredient is classified as Toxicity Category IV for acute oral toxicity/pathogenicity effects in mammals.

B. Acute Dermal Toxicity Study (OPPTS 885. 3100 Test Guideline) and Primary Dermal Irritation (OPPTS 870.2500 Test Guideline)

A study was reviewed by the Agency to ascertain acute dermal toxicity and pathogenic effects of the Technical Grade Active Ingredient (TGAI) *B. bassiana* HF23 in rabbits (MRID 46526004; DER dated 2/1/06).

B. bassiana HF23 (2,000 mg/kg body weight) was applied to the shaved skin on the backs of New Zealand white rabbits (5 per sex) for 24 hours. The animals were observed twice daily for 14 days for signs of irritation and toxicity. All of the rabbits survived, and exhibited normal body weight gain. The test organism produced no adverse reaction on the skin of the rabbits. The dermal LD_{50} for *B. bassiana* HF23 in rabbits was greater than 2,000 mg/kg. *B. bassiana* HF23 is classified in Toxicity Category III.

Based on the lack of irritation to the skin of rabbits in this study, and the nature of the inert ingredients in the products being registered by the petitioner, the Agency waived the requirement of a primary dermal irritation study for their products.

C. Acute Pulmonary Toxicity/ Pathogenicity (OPPTS 885.3150 Test Guideline)

A study was reviewed by the Agency to ascertain acute pulmonary toxicity and pathogenic effects of the Technical Grade Active Ingredient (TGAI) *B. bassiana* HF23 in rats (MRID 46526005; DER dated 1/31/06).

In this study, single doses of the test material were administered to laboratory rats by intratracheal instillation at a concentration of 1.06 x 10^7 cfu/0.1 ml (purified water). The animals were observed for signs of toxicity, clinical signs, morbidity, and mortality twice daily until the end of the study.

One male and one female rat died on the day of dosing, with the cause of death likely due to anesthesia. All other rats survived, appeared normal, and exhibited normal weight gains until scheduled sacrifice. Reduced feces were observed in one female each from the untreated (control) groups for one day, but since these animals were not exposed to *B. bassiana* HF23, the effect was not attributed to the test material.

Lungs, kidney, brain, liver, lungs, spleen, cervical and mesenteric lymph nodes, cecum contents and blood samples were collected from treated and control animals. *B. bassiana* HF23 was detected in the lungs of all treated animals collected on the day of dosing

(males: 2.10–3.70 x 10^4 cfu/g lung tissue; females: 4.70–7.60 x 10^4 cfu/g lung tissue).

No test organisms were detected in the tissues, blood, and cecum contents collected from the treated animals on days 3 and 7, and no test organisms were detected in any of the untreated animals during the study. The presented data show no clinical signs in treated rats. *B. bassiana* HF23 was detected only in lungs immediately following dosing, but this cleared by day 3 after dosing. Therefore, based upon the results of this study, *B. bassiana* HF23 is not toxic, infective, nor pathogenic to rats via the pulmonary route of administration, and thus is considered Toxicity Category IV.

D. Acute Inhalation (Data Waiver Request; OPPTS 870.1300 Test Guideline)

The registration requirement for an acute inhalation study for the proposed use as a treatment for chicken manure was waived by the Agency, based upon the nature of the inert ingredients of the proposed pesticide EP and the low toxicity potential of the active ingredient demonstrated in the acute pulmonary toxicity/pathogenicity study discussed in Unit III.C. The inert ingredients in the proposed EP consist of a solid state matrix with particles which are not respirable. Based on the acute pulmonary test and the nature of the inert ingredients, the MP is considered Toxicity Category IV.

E. Acute Intraperitoneal Injection (OPPTS 885.3200 Test Guideline)

A study was reviewed by the Agency to ascertain acute intraperitoneal toxicity and pathogenic effects of the Technical Grade Active Ingredient (TGAI) *B. bassiana* HF23 in rats (MRID 46526006; DER dated 1/31/06).

In this study, laboratory rats were dosed with 1 ml of a suspension of *B. bassiana* HF23 in purified water (3.97 x 10^8 cfu (hemacytometer count) or 2.8 x 10^7 cfu/animal) by intraperitoneal injection. There were no clinically significant signs in any of the rats. All animals gained weight and survived to the end of the study. One treated male and one treated female developed a lump under the skin in the ventral abdomen at the injection site. The test organism was not recovered from those lesions. One treated male had mottled kidneys and one treated female had red lungs. One untreated female and four treated females had red/enlarged ovaries/uterus. No lesions or other signs of infectivity were observed in the affected kidneys, lungs, ovaries, and uteri. Based on the presented/submitted data, the test organism was not toxic or pathogenic to rats via the intraperitoneal route.

F. Hypersensitivity Study

Since no incidents of hypersensitivity have been reported at this time for *B. bassiana* HF23, the Agency has determined that the active ingredient is not expected to initiate a hypersensitive response in humans. Footnote (iii) of 40 CFR 158.740(c) states that this guideline is required if commonly recognized practices will result in repeated human contact by inhalation and dermal routes, and based upon the proposed uses of *B. bassiana* HF23 as an insecticide in chicken manure, repeated human exposure by these routes are not expected.

In order to mitigate the potential for *B. bassiana* HF23 to cause hypersensitivity in humans, the Agency will require appropriate protective clothing to avoid repeated contact with skin and respiratory tract when the active ingredient is used as a pesticide.

G. Hypersensitivity Incidents (OPPTS 885.3400 Test Guideline)

No incidents of hypersensitivity associated with the TGAI or proposed components of the EP have been reported or are found in the scientific literature to date. However, as with all pesticides, any incidents of hypersensitivity or other adverse effects associated with the use of *B. bassiana* HF23 must be reported to the Agency, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 6(a)(2).

H. Immune Response (OPPTS 880.3800 Test Guideline)

The Agency has waived the registration requirements for an immune response study based on the following: *B. bassiana* HF23 is a well-known entomopathogenic (pathogenic to insects) fungus, that is ubiquitous in nature. As no incidents of hypersensitivity have been reported, *B. bassiana* HF23 is not expected to initiate a hypersensitive response in humans. Based upon the proposed uses of *B. bassiana* HF23 as an insecticide in chicken manure, repeated human exposure by these routes are not expected.

In its decision to waive this required study, the Agency considered the results of the acute dermal study, in which no adverse dermal reaction to a 24–hour exposure to the active ingredient, as previously discussed. The Agency also considered the results of the acute toxicity/pathogenicity oral, dermal, pulmonary, and intraperitoneal tests. These studies demonstrated that the active ingredient is neither acutely toxic nor pathogenic when it is administered to test animals via intraperitoneal, oral, dermal, or respiratory routes. The results from these tests indicate that mammalian immune systems can clear the organism, since none were found in any organs or tissues involved in immunity (spleen, lymph node, blood).

In order to mitigate the potential for *B. bassiana* HF23 to cause hypersensitivity in humans, the Agency will require appropriate protective clothing to avoid repeated contact with skin and respiratory tract when the active ingredient is used as a pesticide.

I. Subchronic, Chronic Toxicity and Oncogenicity, and Residue Data

The summaries of the data discussed in this Unit comply with the Tier I data requirements set forth in 40 CFR 158.740(c), and do not trigger the Tier II and Tier III data requirements, which, therefore, are not required in connection with this action. In addition, because the Tier II and Tier III data requirements were not required, the residue data requirements set forth in 40 CFR 158.740(b) also were not required.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of the 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 microbial pesticide containing the active ingredient, *B. bassiana* HF23, is not applied directly to food as discussed previously. Food or animal feed commodities could potentially be exposed to inadvertent residues of *B. bassiana* HF23 as a result of treated chicken manure being used as fertilizer to agricultural crops.

1. *Food. B. bassiana* HF23 is sensitive to warm temperatures (MRID 46526011) and UV light. The treated chicken manure is processed by composting into fertilizer for use on agricultural crops. The high temperatures of composting are very likely to destroy any potential residual *B. bassiana* HF23 or other potential microbial contaminants. Thus, the amount of viable *B. bassiana* HF23 spores that may have remained after composting treated chicken manure would greatly diminish once the manure is spread as a fertilizer and the

spores exposed to sunlight. However, data show that viable *B. bassiana* HF23 spores will leave poultry production houses upon disposal of manure and litter (MRID 46786401; BPPD DER 6/20/06). At the time of application of the treated chicken manure, *B. bassiana* HF23 colonies have declined to levels which are no greater than those observed of the naturally occurring microbe (MRID 46786401; BPPD DER 6/20/06).

There is no direct post-harvest treatment of food commodities with *B. bassiana* HF23. Thus, detectable residues of *B. bassiana* HF23 are not expected on agricultural crops or food commodities as a result of the proposed use of this active ingredient. Moreover, washing, peeling and processing of foods and feed commodities before consumption would further mitigate any potential exposure and risk via dietary exposure. The active ingredient occurs naturally and is ubiquitous in the environment. The toxicological profile discussed in Unit III. indicates no acute oral toxicity/pathogenicity effects of this active ingredient. In addition, a study conducted for ecological effects, used chickens for avian oral toxicology tests. No adverse effects were observed for 20 day old chickens dosed at acceptable guideline levels. Transfer to meat, milk, poultry, and eggs is expected to be negligible to non-existent, as noted in these discussions of submitted toxicology studies. Thus, no harm is expected to human adults, children or infants via consumption of food or feed exposed to chicken manure which has been treated with *B. bassiana* HF23.

2. *Drinking water exposure*. No drinking water exposure is anticipated because of the use pattern and use sites. There are no aquatic use sites permitted for this pesticide. Thus, transfer of *B. bassiana* HF23 from soil to groundwater is unlikely. Even if such a transfer were to occur, the fungus would not survive the conditions of drinking water treatment, such as chlorination, pH adjustments, and other water processing conditions. Further, there is no evidence of adverse effects from exposure to this ubiquitous organism. Exposure from the proposed use of *B. bassiana* HF23 is not likely to pose any incremental risk to adult humans, infants, and children via consumption of drinking water.

B. Other Non-Occupational Exposure

The proposed products are an MP for formulation into pesticide EPs and an EP that is intended to be used commercially for treatment of chicken manure in poultry houses to control house flies. Non-occupational residential, school, or day care exposure is not anticipated because of the use pattern of this product. The use of *B. bassiana* HF23 should result in minimal to non-existent, non-occupational risk. No indoor residential, school, or daycare uses are currently permitted for this active ingredient.

1. *Dermal exposure*. EPA has concluded that this pesticide poses minimal risk to human populations via non-occupational dermal exposure. This conclusion is based on the low toxicity potential observed in the acute dermal studies discussed in Unit III., and the low exposure potential based on non-viability of the active ingredient after treated chicken manure is used as a fertilizer on agricultural crops. Moreover, potential non-occupational dermal exposure to *B. bassiana* HF23 is unlikely because the use sites are commercial and agricultural.

As previously discussed, no hypersensitivity incidents associated with *B. bassiana* HF23 have been reported to date. Therefore, the Agency does not expect pesticides containing *B. bassiana* HF23 to pose a non-occupational dermal exposure risk.

2. *Inhalation exposure*. Non-occupational inhalation exposure to *B. bassiana* HF23 from its proposed agricultural use as a pesticide to treat chicken manure is not anticipated. In the pulmonary study described in Unit III.C., no treatment-related effects associated with the active ingredient were observed in laboratory rats. In the unlikely event that an individual is exposed to the active ingredient by the inhalation route, such exposure is not expected to pose an inhalation risk.

In summary, the potential aggregate exposure as a result of the use of the pesticidal active ingredient *B. bassiana* HF23 is not likely to pose a hazard via aggregate exposure. This includes hazards derived from (a) dietary exposure from the treated food/feed commodities, (b) drinking water potentially exposed secondary to treatment of sites with this pesticide; and (c) dermal and inhalation non-occupational exposure of populations exposed to *B. bassiana* HF23.

V. Cumulative Effects

The Agency has considered the potential for cumulative effects of *B. bassiana* HF23 and other substances in relation to a common mechanism of toxicity. These considerations include the possible cumulative effects of such residues on infants and children. As demonstrated in the toxicity assessment, *B. bassiana* HF23 is non-toxic and non-pathogenic to mammals. Because no mechanism of pathogenicity or toxicity in mammals has been identified for this organism, no cumulative effects from the residues of this product with other related microbial pesticides are anticipated.

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

There is reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposures to residues of *B. bassiana* HF23, as a result of its proposed uses. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. As discussed previously, there appears to be no potential for harm from this fungus in its use as an insecticide via dietary exposure since the organism is non-toxic and non-pathogenic to animals and humans. The Agency has arrived at this conclusion based on the very low levels of mammalian toxicity for acute oral, pulmonary, dermal, and intraperitoneal effects with no toxicity or infectivity at the doses tested (see Unit III.).

Moreover, potential non-occupational inhalation or dermal exposure is not expected to pose any adverse effects to exposed populations via aggregate and cumulative exposure (see Units IV. and V.)

FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional ten-fold margin of exposure (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 on toxicity and exposure, unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. Margins of exposure (safety), which are often referred to as uncertainty factors, are incorporated into EPA risk assessment either directly, or through the use of a margin of exposure analysis, or by using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk. In this instance, based on all the available information (as discussed in Unit III.), the Agency concludes that the fungus, *B. bassiana* HF23, is non-toxic to mammals, including infants and children. Because there are no threshold effects of concern to infants, children, and adults when *B. bassiana* HF23 is used as a pesticidal active ingredient, the Agency has determined that the additional margin of safety is not necessary to protect infants and children, and that not adding any additional margin of safety will be safe for infants and children. As a result, EPA has not used a margin of

exposure (safety) approach to assess the safety of *B. bassiana* HF23.

VII. Other Considerations

A. Endocrine Disruptors

EPA is required under section 408(p) of the 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 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, *B. bassiana* HF23. The Agency has considered, among other relevant factors, available information concerning whether the microorganism may have an effect in humans similar to an effect produced by a naturally occurring estrogen or other endocrine effects. There is no known metabolite that acts as an ''endocrine disruptor'' produced by this microorganism. The submitted toxicity/infectivity or pathogenicity studies in the rodent (required for microbial pesticides) indicate that, following oral, pulmonary, dermal, and intraperitoneal routes of exposure, the immune system is still intact and able to process and clear the active ingredient (see Unit III.). In addition, based on the low potential exposure level associated with the proposed uses of the pesticide, the Agency expects no adverse effects to the endocrine or immune systems. Thus, there is no impact via endocrine-related effects on the Agency's safety finding set forth in this final rule for *B. bassiana* HF23.

B. Analytical Method(s)

The acute oral studies discussed in Unit III. demonstrate that the active ingredient does not pose a dietary risk. In addition, the active ingredient is not likely to come into contact with the treated food commodities. Furthermore, the low application rate and non-persistence on food during applications suggests very low exposure potential via the dietary route. Since residues are not expected on treated commodities, the Agency has concluded that an analytical method to detect residues of this pesticide on treated food commodities for enforcement purposes is not needed.

Nevertheless, the Agency has concluded that for analysis of the pesticide itself, microbiological and biochemical methods exist and are acceptable for enforcement purposes for product identity of *B. bassiana* HF23. Other appropriate methods are required for quality control to assure that product characterization, the control of human pathogens, and other unintentional metabolites or ingredients are within regulatory limits, and to ascertain storage stability and viability of the pesticidal active ingredient.

C. Codex Maximum Residue Level

There is no Codex maximum residue level for residues of *B. bassiana* HF23.

VIII. Conclusions

The results of the studies discussed are sufficient to comply with the requirements of the FQPA. They support an exemption from the requirement of a tolerance for residues of *B. bassiana* HF23, on treated food or feed commodities. In addition, the Agency is of the opinion that, if the microbial active ingredient is used as allowed, aggregate and cumulative exposures are not likely to pose any undue hazard to the adult human U.S. population, children, and infants. Therefore, an exemption from the requirement of a tolerance is granted in response to pesticide petition 5F6960.

IX. Statutory and Executive Order Reviews

This final rule establishes an exemption from the requirement of a tolerance under section 408(d) of the 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 the 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 the 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: December 22, 2006.

James Jones,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 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 180.1273 is added to subpart D to read as follows:

§ 180.1273 Beauveria bassiana HF23; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established on all food/feed commodities, for residues of *Beauveria bassiana* HF23 when the pesticide is used for chicken manure treatment.

[FR Doc. E7–170 Filed 1–9–07; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–2562; MB Docket No. 05–85, RM–11164]

Radio Broadcasting Services; Hennessey, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Linda Crawford, allots Channel 249A at Hennessey, Oklahoma, as the community's first local FM service. Channel 249A can be allotted to Hennessey, Oklahoma, in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.7 kilometers (4.8 miles) west of Hennessey. The coordinates for Channel 249A at Hennessey, Oklahoma, are 36–07–55 North Latitude and 97–58–46 West Longitude.

DATES: Effective February 5, 2007.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 05–85, adopted December 20, 2006, and released December 22, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC 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.bcpiweb.com.* The Commission will 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).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Hennessey, Channel 249A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–183 Filed 1–9–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–2564; MB Docket No. 03–13; RM–10628]

Radio Broadcasting Services; Johnston City and Marion, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule; dismissal of application for review.

SUMMARY: In response to a request for dismissal of the Application for Review of the *Report and Order*, in this proceeding, the Application for Review is dismissed.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order*, MB