underlying rules is discussed in section VII of the rule titled, "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans" at 75 FR 82549.

List of Subjects in 40 CFR Part 52

Administrative practice and procedure, Air pollution control, Carbon dioxide, Carbon dioxide equivalents, Environmental protection, Greenhouse gases, Hydrofluorocarbons, Intergovernmental relations, Incorporation by reference, Methane, Nitrous oxide, Perfluorocarbons, Reporting and recordkeeping requirements, Sulfur hexafluoride.

Dated: February 24, 2011.

Lisa P. Jackson,

Administrator.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as set forth below.

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart LL—Oklahoma

■ 2. Section 52.1929 is amended by revising paragraph (c)(4)(iii) to read as follows:

§ 52.1929 Significant deterioration of air quality.

* * * * *

(c) * * *

(4) * * *

(iii) The term emissions increase shall mean that both a significant emissions increase (as calculated using the EPA-approved procedures in Oklahoma Air Pollution Control Regulation Title 252, Chapter 100, Subchapter 8, Part 7) and a significant net emissions increase (as defined in the EPA-approved Oklahoma Air Pollution Control Regulation 252:100–8–31, definitions for "net emissions increase" and "significant" occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO_2e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and "significant" is defined as 75,000 tpy CO_2e instead of applying the value in 252:100–8–31 of the EPA-approved definition for "significant" of Oklahoma's Air Pollution Control Regulations.

[FR Doc. 2011–4907 Filed 3–3–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0021; FRL–8865–3]

Peroxyacetic Acid; Amendment to an Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends the existing tolerance exemption for peroxyacetic acid by establishing an exemption from the requirement of a tolerance for residues of the biochemical pesticide peroxyacetic acid (PAA) and its metabolites and degradates, including hydrogen peroxide (HP) and acetic acid (AA), in or on all food commodities, when PAA is used as a biochemical pesticide in accordance with good agricultural practices. BioSafe Systems, LLC submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting that EPA amend the existing PAA tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of PAA under the FFDCA.

DATES: This regulation is effective March 4, 2011. Objections and requests for hearings must be received on or before May 3, 2011, 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–2008–0021. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* 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 Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Cheryl Greene, Biopesticides and Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0352; e-mail address: *greene.cheryl@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 get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr.* To access the harmonized test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select "Test Methods and Guidelines."

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. 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–2008–0021 in the subject line on

the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 3, 2011. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

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. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2008–0021, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* 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 Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility'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 Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of February 13, 2008 (73 FR 8311) (FRL–8349–5), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 7F7262) by BioSafe Systems, LLC, 22 Meadow Street, East Hartford, CT 06108. The petition proposed to establish an exemption from the requirement of a tolerance for residues of the biochemical pesticide, peroxyacetic acid in or on all agricultural commodities when used as a biochemical pesticide. This notice referenced a summary of the petition prepared by the petitioner, BioSafe Systems, LLC, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to section 408(c)(2)(B) of FFDCA, 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) of FFDCA, which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance exemption and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue * * *." Additionally, section 408(b)(2)(D) of FFDCA requires that EPA consider "available information concerning the cumulative effects of [a particular pesticide's] residues and other substances that have a common mechanism of toxicity."

Section 408(a)(3) of FFDCA states that residues of metabolites or degradates of pesticide chemicals "shall not be considered to be unsafe * * * despite the lack of a tolerance or exemption from the need for a tolerance for such residue in or on such food" if three conditions are met. First, the Agency must not have determined that the degradation product "is likely to pose any potential health risk from dietary exposure that is of a different type than, or of a greater significance than, any risk posed by dietary exposure to the precursor substance". Second, for purposes of this action, an exemption exists for residues of the precursor substance. Third, again for purposes of this action, the exemption for residues of the precursor substance does not expressly exclude residues of the metabolites or degradates.

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

A. Overview

The purpose of this rulemaking is to amend the existing tolerance exemption for PAA to allow for residues of PAA and its metabolites and degradates, including HP and AA in or on all food commodities, when such residues result from its use as a biochemical pesticide in accordance with good agricultural practices. At high concentrations, PAA is a highly corrosive, colorless, organic compound that is formed, and only exists in equilibrium, with hydrogen peroxide and acetic acid. The current exemptions for residues of PAA allow application of PAA, after dilution to specific concentrations in parts per million (ppm), as an antimicrobial treatment to fruits, vegetables, tree nuts, cereal grains, herbs, spices, and as a sanitizing solution to tableware, utensils, dishes, pipelines, tanks, vats, fillers, evaporators, pasteurizers, aseptic equipment, milking equipment, and food processing equipment in food handling establishments. (40 CFR 180.1196).

B. Toxicity of PAA

1. *Acute toxicity.* Acute toxicity data and information submitted to support the exemption from the requirement of a tolerance for peroxyacetic acid were conducted on the technical blend of peroxyacetic acid, acetic acid and hydrogen peroxide. PAA is always sold in solution with AA and HP to maintain stability of the chemical. Further, all three active ingredients have an identical mode of action as strong oxidizing agents that disrupt cell membranes because of the low ph. This information confirms the toxicity profile of peroxyacetic acid, acetic acid and hydrogen peroxide. The results of the toxicology studies as conducted on the technical blend are reported in the table of Unit III.B.1.

TABLE—TOXICOLOGY STUDIES RESULTS

Study type	Study results
Acute oral toxicity	The acute oral median LD_{50} = 3,622 milligrams/kilograms (mg/kg) for male and female rats given a solution containing 5.6% PAA, 26.9% H_2O_2, and 7.6% HOAc. This technical blend is Toxicity category III for acute oral toxicity. (Master Record Identification Number [MRID No.] 47237802, Ref. 1). (ECETOC, Ref. 2).
Acute dermal toxicity	The acute dermal LD_{50} = 1,040 mg/kg (Tox category II) for female rabbits after a 24-hr semi-occlusive exposure to a solution containing 4.89% PAA, 19.72% H_2O_2, and 10% HOAc. (Ref. 1 and 2).
Acute inhalation toxicity	The acute inhalation median LC_{50} > 5.35 mg/L for male and female rats exposed for 4 hr to aerosol of solution containing 4.5% PAA, 27% H_2O_2, and 16.7% HOAc. (Ref. 1 and 2).
Primary eye irritation	Due to pH of 0.82 for 2.0% solution and pH 0.82 for 5.0% solution, PAA is assumed to be a severe irritant; ≥ 0.2% PAA was severely irritating or corrosive to the eye, 0.15% was mildly irritating to the rabbit eye, and 0.034% caused very slight irritation. (Ref. 1 and 2).
Primary dermal irritation	Due to pH of 0.82 for 2.0% solution and pH 0.82 for 5.0% solution, PAA is assumed to be a severe irritant. (Ref. 1 and 2).

2. *Subchronic toxicity.* Based on its acute toxicity profile, use pattern and biodegradation properties, rapid degradation half lives for degradates, residues of PAA and its degradates, including AA and HP, are not expected to result in significant dietary exposure beyond the levels expected in background dietary exposures. Nonetheless, information from the open scientific literature to address the subchronic oral, dermal and inhalation toxicity guidelines testing, satisfied the data requirements for subchronic toxicity and indicated that PAA and its degradates have no subchronic toxicological effect.

C. Degradates of PAA

PAA degrades rapidly to AA and HP, and HP further degrades to water and oxygen; therefore, the final degradation products of PAA are AA, water, and oxygen. As stated in Unit II., section 408(a)(3) allows degradates of precursor substances to be covered by the exemption for the precursor substance as long as, inter alia, the Administrator has not determined that the degradation product "is likely to pose any potential health risk from dietary exposure that is of a different type than, or of a greater significance than, any risk posed by dietary exposure to the precursor substance". For PAA and its degradates AA and HP, EPA has made no such determination. The following discussion summarizes the Agency's previous assessments of AA and HP.

1. *Acetic acid.* AA is a substance found in most plants and animals, including primates and humans, and is naturally produced during the fermentation process in a wide range of foods. Furthermore, AA has a long history of use as a food additive, is the main acid in vinegar, and is found in wine, beer, and similarly brewed beverages and fermented food items (*e.g.*, sauerkraut). The Food and Drug Administration (FDA) classifies AA as Generally Recognized as Safe (GRAS) as a direct food substance (21 CFR 184.1005) and as a general purpose food additive (21 CFR 582.1005). Furthermore, information from the open literature indicates that AA has little or no toxicity from an acute oral perspective (toxicity category III; median lethal dose (LD_{50}) = 3,310 mg/kg). Data also indicate that AA has no subchronic, developmental, or mutagenic toxicological effects. (Ref. 3).

2. *Hydrogen peroxide.* Previously, EPA assessed HP for potential risks to the U.S. population, including infants and children, and concluded that, since HP itself degrades rapidly into oxygen and water, residues of a solution that contains 1% HP are not expected to remain in or on food. Hydrogen peroxide is listed by the FDA as GRAS. Additionally, hydrogen peroxide is used to treat food at a maximum level of 0.05% in milk used in cheesemaking, 0.04% in whey, 0.15% in starch and corn syrup, and 1.25% in emulsifiers containing fatty acid esters as bleaching agents (21 CFR 184.1366). As a GRAS substance, hydrogen peroxide may be used in washing or to assist in the lye peeling of fruits and vegetables (21 CFR 173.315). The information from open literature demonstrated that solutions containing 6% hydrogen peroxide have an acute oral LD_{50} >/= 5,000 mg/kg in rats (toxicity category III), an acute dermal LD_{50} >/= 10,000 mg/kg in rabbits (toxicity category IV), and an inhalation LC_{50} of 4 milligram/liter (mg/L) (toxicity category IV). The 6% hydrogen peroxide solutions are mild irritants to rabbit skin and cause severe irreversible corneal injury in half of the exposed rabbits (toxicity category I). Toxicology information from open literature demonstrated that solutions which contained 50% hydrogen peroxide have an acute oral LD_{50} < 500 mg/kg in rats (toxicity category II), and an acute dermal LD_{50} < 1,000 mg/kg in rabbits (toxicity category II). No deaths resulted after an 8-hour exposure of rats to saturated vapors of 90% hydrogen peroxide, LC_{50} = 4 mg/L (2,000 ppm). Solutions which contain 50% hydrogen peroxide also are extremely irritating (corrosive) to rabbit eyes (toxicity category I). EPA has concluded that for food use at an application rate of 1%, hydrogen peroxide has no apparent acute toxicity and subchronic toxicity end points exist to suggest a significant toxicity. An RfD (chronic toxicity) for hydrogen peroxide has not been estimated because of its short half-life in the environment and lack of any residues of toxicological concern. (Ref. 4).

IV. Aggregate Exposure

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

Dietary exposure to residues of PAA and its degradate components, AA and HP, are expected to be virtually nonexistent at the time of consumption. Even in the event of unlikely exposure, the information supporting this tolerance exemption demonstrates that any dietary risks would be negligible.

1. *Food.* When used as a soil treatment, the Agency does not expect there to be any residues of PAA or its degradates because PAA breaks down rapidly on contact with soil, which precludes uptake of PAA by plants. The rate of degradation can be affected by the concentration of PAA in a solution and environmental conditions (*e.g.*, temperature and pH of the environment

in which the PAA is applied), but the Agency expects that PAA, when used as a biochemical pesticide for applications to soil or foliage or greenhouse structures, will likely degrade within 24 hours following application. This is because good agricultural practices generally require a soil pH of 5 to 7, at which level PAA degrades in less than 24 hours. Regardless of the time required for PAA to break down, the use of this biochemical pesticide as a pre-plant soil treatment would occur before any food crops would be present, and degradation would prevent uptake by plants; thus, no residues are expected from use as a soil treatment to sterilize the soil and kill pathogens in soils.

When used to treat plants directly, the Agency anticipates that PAA will be applied to the plant at concentrations that will not cause damage to the plant. At such concentrations, the Agency expects PAA to degrade within 24 hours into AA, oxygen, and water because PAA begins to degrade immediately upon contact with organic matter. Therefore, the Agency has determined that there will be little to no exposure to PAA from direct treatment of plants.

2. *Drinking water exposure.* The Agency expects there to be little to no exposure of humans to PAA and its degradates in drinking water since PAA degrades quickly in water, i.e., within 24 hours, especially water bodies with neutral or alkaline pH levels, into AA, oxygen, and water. In the event that residues of the degradates are present, the levels of the degradates do not present a risk concern based on the foreseeable rates at which PAA is likely to be applied.

B. Other Non-Occupational Exposure

Non-occupational exposure is not expected since PAA rapidly degrades and is non-persistent in the environment.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, EPA consider "available information concerning the cumulative effects of a particular pesticide's residues and other substances that have a common mechanism of toxicity."

EPA has not found peroxyacetic acid to share a common mechanism of toxicity with any other substances, and peroxyacetic acid does not appear to produce a toxic metabolite as its mode of action against the target pests. For the purposes of this tolerance action, therefore, EPA has assumed that peroxyacetic acid does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

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

1. *U.S. population.* Based on the lack of exposure to much, if any, PAA and its metabolites and degradates, including HP and AA, the Agency has concluded that there is reasonable certainty that no harm will result to the general U.S. population, including infants and children, from aggregate exposure to PAA and its metabolites and degradates, including HP and AA. This includes all anticipated dietary exposures and all other exposures for which there is reliable information.

2. *Infants and children.* FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold margin of exposure (MOE) for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure, unless EPA determines that a different MOE will be safe for children. MOEs, which are often referred to as uncertainty (safety) factors, are incorporated into EPA risk assessments either directly, or through the use of a MOE analysis or by using uncertainty factors in calculating a dose level that poses no appreciable risk. Because there are no threshold effects of concern to infants, children, and adults from PAA and its metabolites or degradates, including HP and AA, the Agency concludes that the additional MOE is not necessary to protect infants and children and that removing the FQPA safety factor will be safe for infants and children.

VII. Other Considerations

A. Analytical Enforcement Methodology

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

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for peroxyacetic acid.

VIII. Conclusions

EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of peroxyacetic acid and its metabolites and degradates, including AA and HP. Therefore, the existing tolerance exemption for PAA is amended to establish a tolerance exemption for residues of the biochemical pesticide, peroxyacetic acid, in or on all food commodities, when used in accordance with good agricultural practices.

IX. References

1. Mileson, B.E. 2007. Biochemical Pesticide Data Required for Zerotol 2.0. Submitted by BioSafeSystems LLC. MRID 472378002.
2. ECETOC, 2001. Peroxyacetic Acid (CAS No. 79–21–0) and its Equilibrium Solutions. Joint Assessment of Commodity Chemicals, JACC No 40. European Centre for Ecotoxicology and Toxicology of Chemicals. Brussels, pp. 27–32. January 2001.
3. Environmental Protection Agency. [EPA–HQ–OPP–2010–0561; FRL–8833–8]. Acetic Acid: Exemption from the Requirement of a Tolerance. Final Rule; 75 FR 40736, July 14, 2010.
4. Environmental Protection Agency. [OPP–2002–0042; FRL–6835–3]. Hydrogen Peroxide; An amendment to an Exemption from the Requirement of a Tolerance; Technical Correction. Final Rule; Technical Correction; 67 FR 41844, June 20, 2002; Corrected 67 FR 9214, February 28, 2002, FRL–6822–7.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance exemption under section 408(d) of FFDCA in response to a petition submitted to EPA. 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 final rule has been

exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). 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.,* 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).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance 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.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, EPA has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, EPA has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), do not apply to this final rule. In addition, this final rule does not 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).

This action does not involve any technical standards that would require EPA 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).

XI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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: February 17, 2011.

Keith A. Matthews,

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

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.1196, add paragraph (c) to read as follows:

§ 180.1196 Peroxyacetic acid; exemption from the requirement of a tolerance.

* * * * *

(c) An exemption from the requirement of a tolerance is established for residues of the biochemical pesticide peroxyacetic acid and its metabolites and degradates, including hydrogen peroxide and acetic acid, in or on all food commodities, when used in accordance with good agricultural practices.

[FR Doc. 2011–4773 Filed 3–3–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Chapter 2

Defense Federal Acquisition Regulation Supplement; Appendix A, Armed Services Board of Contract Appeals, Part 2—Rules

CFR Correction

In Title 48 of the Code of Federal Regulations, Chapter 2 (Parts 201 to 299), revised as of October 1, 2010, on page 516, in Appendix A, above the heading "Preface", the following heading and text is added;

APPENDIX A TO CHAPTER 2—ARMED SERVICES BOARD OF CONTRACT APPEALS

* * * * *

Part 2—Rules

Approved 15 July 1963.
Revised 1 May 1969.
Revised 1 September 1973.
Revised 30 June 1980.

* * * * *

[FR Doc. 2011–5074 Filed 3–3–11; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 110111018–1095–02]

RIN 0648–XA109

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary emergency rule; interim measures.

SUMMARY: NMFS is suspending directed fishing for Pacific sardine off the coasts of Washington, Oregon and California through June 30, 2011. This action is necessary because the proposed directed harvest allocation total for Pacific sardine the first seasonal period (January 1–June 30) of 15,214 metric tons (mt) is projected to be reached by the effective date of this rule. Under this rule, Pacific sardine may be harvested only as part of the live bait fishery or incidental to other fisheries; the incidental harvest of Pacific sardine is