

Central Docket Section, EPA, 401 M Street, SW, Washington, DC or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register on January 13, 1992. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the **Federal Register**.

\* \* \* \* \*

(j) Effective in the 2004 model year, NCPs will be available for the following emission standard:

(1) Diesel heavy-duty engine non-methane hydrocarbon plus oxides of nitrogen standard of 2.4 grams per brake horsepower-hour (or alternatively, 2.5 grams per brake horsepower-hour with a limit on non-methane hydrocarbon emissions of 0.5 grams per brake horsepower-hour), in § 86.004–11(a)(1)(i).

(i) For light heavy-duty diesel engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113–87(a):

(1) COC<sub>50</sub>: \$1080.

(2) COC<sub>90</sub>: \$2610.

(3) MC<sub>50</sub>: \$2000 per gram per brake horsepower-hour.

(4) F: 1.3.

(5) UL: 4.5 grams per brake horsepower-hour; notwithstanding § 86.1104–91.

(B) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.004–11(a)(1)(i) in accordance with § 86.1113–87(h): 0.333.

(ii) For medium heavy-duty diesel engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113–87(a):

(1) COC<sub>50</sub>: \$3360.

(2) COC<sub>90</sub>: \$6870.

(3) MC<sub>50</sub>: \$1800 per gram per brake horsepower-hour.

(4) F: 1.3.

(5) UL: 4.5 grams per brake horsepower-hour; notwithstanding § 86.1104–91.

(B) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.004–11(a)(1)(i) in accordance with § 86.1113–87(h): 0.167.

(iii) For heavy heavy-duty diesel engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113–87(a):

(1) COC<sub>50</sub>: \$8940.

(2) COC<sub>90</sub>: \$14790.

(3) MC<sub>50</sub>: \$7200 per gram per brake horsepower-hour.

(4) F: 1.3.

(5) UL: 6.0 grams per brake horsepower-hour; notwithstanding § 86.1104–91.

(B) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.004–11(a)(1)(i) in accordance with § 86.1113–87(h): 0.067.

(iv) For diesel urban bus engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113–87(a):

(1) COC<sub>50</sub>: \$4400.

(2) COC<sub>90</sub>: \$7120.

(3) MC<sub>50</sub>: \$4895 per gram per brake horsepower-hour.

(4) F: 1.3.

(5) UL: 4.5 grams per brake horsepower-hour; notwithstanding § 86.1104–91.

(B) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.004–11(a)(1)(i) in accordance with § 86.1113–87(h): 0.136.

(2) [Reserved]

[FR Doc. 02–1109 Filed 1–15–02; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP–301192; FRL–6810–3]

RIN 2070–AB78

### Nicotine; Proposed Revocation of Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to revoke specific tolerances for residues of nicotine-containing compounds used as insecticides and for the insecticide nicotine because nicotine is no longer registered for those uses in the United States. The regulatory actions proposed in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2002 to reassess 66% of the

tolerances in existence on August 2, 1996, or about 6,400 tolerances. The regulatory actions in this document pertain to the proposed revocation of 66 nicotine tolerances which would be counted among tolerance/exemption reassessments made toward the August, 2002 review deadline.

**DATES:** Comments, identified by docket control number OPP–301192, must be received on or before March 18, 2002.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–301192 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460; telephone number: (703) 308–8037; e-mail address: nevola.joseph@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	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing 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\\_180/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_180/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-301192. 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.

*C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-301192 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection

Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: [opp-docket@epa.gov](mailto:opp-docket@epa.gov), or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP-301192. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI that I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI 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. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the proposed rule or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

*F. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?*

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60-day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f) if needed. The order would specify data needed and the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

## II. Background

### A. What Action is the Agency Taking?

EPA is proposing to revoke specific tolerances for residues of nicotine-containing compounds used as insecticides and for the insecticide nicotine in or on commodities listed in the regulatory text because nicotine is no longer registered under FIFRA for

use on those commodities. It is EPA's general practice to propose revocation of those tolerances for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

Many food uses were removed from nicotine labels in 1992 and in 1994. On April 29, 1992 a FIFRA 6(f)(1) notice of receipt of a request to voluntarily cancel certain nicotine registrations was published in the **Federal Register** (57 FR 18146) (FRL-4056-6), with a use deletion date of July 28, 1992. On October 20, 1993 another 6(f)(1) notice of a receipt of request to voluntarily cancel certain nicotine registrations was published in the **Federal Register** (58 FR 54148) (FRL-4647-1), with a cancellation date of January 28, 1994. No residue data exist to support the tolerances being proposed for revocation. With the exception of cucumber, lettuce, and tomato, there are no other active food use registrations existing for nicotine-containing compounds or nicotine. Therefore, EPA is proposing to revoke a total of 66 tolerances, of which 62 tolerances are found in 40 CFR 180.167 and 4 tolerances are found in § 180.167a.

Specifically, in 40 CFR 180.167 EPA is proposing to revoke tolerances for the following: Apples; apricots; artichokes; asparagus; avocados; beans; beets (with or without tops) or beet greens alone; blackberries; boysenberries; broccoli; Brussels sprouts; cabbage; cauliflower; celery; cherries; citrus fruits; collards; corn; cranberries; currants; dewberries; eggplants; gooseberries; grapes; kale; kohlrabi; loganberries; melons; mushrooms; mustard greens; nectarines; okra; onions; parsley; parsnips (with or without tops) or parsnip greens alone; peaches; pears; peas; peppers; plums (fresh prunes); pumpkins; quinces; radishes (with or without tops) or radish tops; raspberries; rutabagas (with or without tops) or rutabaga tops; spinach; squash; strawberries; summer squash; Swiss chard; turnips (with or without tops) or turnip greens; and youngberries. In 40 CFR 180.167a EPA is proposing to revoke tolerances for eggs; poultry, fat; poultry, meat; and poultry, meat byproducts by removing § 180.167a in its entirety. For counting purposes, the tolerances depicted above as with or without tops are each counted as two tolerances.

In order to conform to current Agency practice, EPA is also proposing to revise the remaining tolerance commodity

names in 40 CFR 180.167 for cucumbers to cucumber and tomatoes to tomato.

#### *B. What is the Agency's Authority for Taking this Action?*

A tolerance represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 301 *et seq.*, as amended by the FQPA of 1996, Public Law 104-170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods (21 U.S.C. 346(a)). Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore adulterated under section 402(a) of the FFDCA. If food containing pesticide residues is considered to be adulterated, you may not distribute the product in interstate commerce (21 U.S.C. 331(a) and 342(a)). For a food use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. *et seq.*). Food use pesticides not registered in the United States have tolerances for residues of pesticides in or on commodities imported into the United States.

It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as import tolerances, are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of the FFDCA, a tolerance may only be established or maintained if EPA

determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid potential trade restrictions, the Agency is proposing to revoke tolerances for residues on crops uses for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances and commits to the data needed to support them. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

#### *C. When do These Actions Become Effective?*

For this rule, the proposed actions will affect uses which have been canceled for many years. EPA is proposing that these actions become effective 90 days following publication of a final rule in the **Federal Register**. EPA is proposing to delay the effectiveness of these revocations for 90 days following publication of a final rule to ensure that all affected parties receive notice of EPA's actions. EPA believes that existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation have been exhausted. However, if EPA is presented with information that existing stocks would still be available and that information is verified, EPA will consider extending the expiration date of the tolerance. If

you have comments regarding existing stocks and whether the effective date accounts for these stocks, please submit comments as described under

**SUPPLEMENTARY INFORMATION.**

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDC section 408(1)(5), as established by FQPA. Under this section, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that, (1) the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

*D. What Is the Contribution to Tolerance Reassessment?*

By law, EPA is required by August 2002 to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996. EPA is also required to assess the remaining tolerances by August, 2006. As of January 3, 2002, EPA has reassessed over 3,830 tolerances. This document proposes to revoke a total of 66 tolerances of which 62 are in 40 CFR 180.167 and 4 are in 40 CFR 180.167a. Therefore, 66 tolerance reassessments would be counted when the final rule is published toward the August, 2002 review deadline of FFDC section 408(q), as amended by FQPA in 1996.

**III. Are the Proposed Actions Consistent with International Obligations?**

The tolerance revocations in this proposal are not discriminatory and are designed to ensure that both domestically produced and imported foods meet the food safety standards established by the FFDC. The same food safety standards apply to domestically produced and imported foods.

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to

promote the coordination of international food standards. It is EPA's policy to harmonize U.S. tolerances with Codex MRLs to the extent possible, provided that the MRLs achieve the level of protection required under FFDC. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual Reregistration Eligibility Decision documents. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL-6559-3). This guidance will be made available to interested persons. Electronic copies are available on the internet at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations," then select "Regulations and Proposed Rules" and then look up the entry for this document under **Federal Register** Environmental Documents. You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

**IV. Regulatory Assessment Requirements**

In this proposed rule, EPA is proposing to revoke specific tolerances established under FFDC section 408. The Office of Management and Budget (OMB) has exempted this type of action (i.e., a tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed 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 proposed 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 as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other 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). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this rule, I certify that this action will not have a significant economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with canceled pesticides. Furthermore, for the pesticides named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposed revocations that would change EPA's previous analysis. Any comments about the Agency's determination should be submitted to EPA along with comments on the proposal, and will be addressed prior to issuing a final rule.

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 proposed 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.

#### 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 20, 2001.

**Marcia E. Mulkey,**

*Director, Office of Pesticide Programs.*

Therefore, it is proposed that 40 CFR part 180 be 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 371.

2. Section 180.167 is amended by removing entries from the existing paragraph and designating the existing paragraph as paragraph (a), and by adding and reserving paragraphs (b), (c), and (d), to read as follows:

#### § 180.167 Nicotine-containing compounds; tolerances for residues.

(a) *General.* Tolerances are established for residues of nicotine-containing compounds used as insecticides in or on the following raw agricultural commodities:

Commodity	Parts per million
Cucumber	2.0
Lettuce	2.0
Tomato	2.0

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

#### § 180.167a [Removed]

3. Section 180.167a is removed.

[FR Doc. 02-628 Filed 1-15-02; 8:45 am]

BILLING CODE 6560-50-S

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 241

[FRA Docket No. FRA-2001-8728, Notice No. 2]

RIN 2130-AB38

#### U.S. Locational Requirement for Dispatching of U.S. Rail Operations

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of public hearing.

**SUMMARY:** On December 11, 2001 (66 FR 63942), FRA published an Interim Final Rule (IFR) requiring all dispatching of railroad operations that occur in the United States to be performed in the United States with three minor exceptions. FRA is interested in receiving public comments on possible benefits and costs of this IFR and comments on whether FRA should adopt an alternative regulatory scheme under which extraterritorial dispatching of United States railroad operations would be permitted and, if so, under what conditions. In the IFR, FRA announced that it would schedule a public hearing to allow interested parties the opportunity to comment on

these issues. This notice announces the scheduling of the public hearing.

**DATES: Public Hearing:** The date of the public hearing is Tuesday, February 12, 2002, at 10 a.m. in Washington, DC. Any person wishing to participate in the public hearing should notify the Docket Clerk by telephone (202-493-6030) or by mail at the address provided below at least five working days prior to the date of the hearing and submit to the Docket Clerk three copies of the oral statement that he or she intends to make at the hearing. The notification should identify the party the person represents, and the particular subject(s) the person plans to address. The notification should also provide the Docket Clerk with the participant's mailing address.

**ADDRESSES:** (1) *Docket Clerk:* Written notification should identify the docket number and must be submitted in triplicate to Ms. Ivornette Lynch, Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC-10, 1120 Vermont Ave., NW., Stop 10, Washington, DC 20590.

(2) *Public Hearing:* The public hearing will be held in the Department of Transportation Headquarters Building, 400 7th Street, SW., Rooms 3200-3204, Washington, DC 20590. Attendees should bring an identification card with photograph (such as a current driver's license), report to the security counter in the southwest quadrant of the DOT building for admission, and follow security procedures as provided at that location.

#### FOR FURTHER INFORMATION CONTACT:

Douglas Taylor, Staff Director for Operating Practices, FRA Office of Safety, RRS-11, 1120 Vermont Avenue, NW., Stop 25, Washington, DC 20590 (telephone 202-493-6255); John Winkle, Trial Attorney, FRA Office of the Chief Counsel, RCC-12, 1120 Vermont Avenue, NW., Stop 10, Washington, DC 20590 (telephone 202-493-6067); or Billie Stultz, Deputy Assistant Chief Counsel, FRA Office of Chief Counsel, RCC-12, 1120 Vermont Avenue, NW., Stop 10, Washington, DC 20590 (telephone 202-493-6053 or 202-493-6029).

Issued in Washington, DC, on January 9, 2002.

**Allan Rutter,**

*Federal Railroad Administrator.*

[FR Doc. 02-1027 Filed 1-15-02; 8:45 am]

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