

10.4, paragraph (2) of Section 12.0 as follows:

**Procedure 2—Quality Assurance Requirements for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources**

10.1 When should I use paired trains for reference method testing? Although not required, we recommend that you should use paired-train reference method testing to generate data used to develop your PM CEMS correlation and for RCA testing. Guidance on the use of paired sampling trains can be found in

the PM CEMS Knowledge Document (see section 16.5 of PS-11).

10.4 What are my limits for excessive audit inaccuracy?

(3) What are the criteria for excessive ACA error? Your PM CEMS is out of control if the results of any ACA exceed ±10 percent of the average audit value, as calculated using Equation 2-1a, or 7.5 percent of the applicable standard, as calculated using Equation 2-1b, whichever is greater.

12.0 What calculations and data analysis must I perform for my PM CEMS?

(2) How do I calculate ACA accuracy? You must use either Equation 2-1a or 2-1b to calculate ACA accuracy for each of the three audit points. However, when calculating ACA accuracy for the first audit point (0 to 20 percent of measurement range), you must use Equation 2-1b to calculate ACA accuracy if the reference standard value (R<sub>v</sub>) equals zero.

$$ACA\ Accuracy = \frac{|R_{CEM} - R_v|}{R_v} \times 100\% \quad (Eq. 2-1a)$$

Where:

ACA Accuracy=The ACA accuracy at each audit point, in percent,

R<sub>CEM</sub> = Your PM CEMS response to the reference standard, and  
R<sub>v</sub> = The reference standard value.

$$ACA\ Accuracy = \frac{|C_{CEM} - C_{RV}|}{C_s} \times 100\% \quad (Eq. 2-1b)$$

Where:

ACA Accuracy = The ACA accuracy at each audit point, in percent,  
C<sub>CEM</sub> = The PM concentration that corresponds to your PM CEMS response to the reference standard, as calculated using the correlation equation for your PM CEMS,  
C<sub>RV</sub> = The PM concentration that corresponds to the reference standard value in units consistent with C<sub>CEM</sub>, and  
C<sub>s</sub> = The PM concentration that corresponds to the applicable emission limit in units consistent with C<sub>CEM</sub>.

11. The authority citation for Part 63 continues to read as follows:  
Authority: 42 U.S.C. 7401 *et seq.*

**PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES**

12. In Method 303 of Appendix A, by adding the following sentence to Section 1.1:

**Appendix A to Part 63—Test Methods**

**Method 303—Determination of Visible Emissions From By-Product Coke Oven Batteries**

**1.0 Scope and Application**

1.1 Applicability. \* \* \* In order for the test method results to be indicative of plant performance, the time of day of the run should vary.

\* \* \* \* \* Q P='03'≤  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-2005-0069; FRL-7729-4]

**Inert Ingredients; Proposal to Revoke 34 Pesticide Tolerance Exemptions for 31 Chemicals; Reopening of Comment Period**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of comment period.

SUMMARY: This document reopens the public comment period of EPA's proposal to revoke 34 exemptions from the requirement of a tolerance that are associated with 31 inert ingredients because, according to Agency records, these substances are no longer contained in active Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

pesticide product registrations (70 FR 31401, June 1, 2005).

**DATES:** Comments, identified by the docket identification (ID) number OPP-2005-0069, must be received on or before August 31, 2005.

**ADDRESSES:** Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of June 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Karen Angulo, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 306-0404; fax number: (703) 305-0599; e-mail address: [angulo.karen@epa.gov](mailto:angulo.karen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

The Agency included in the proposed rule a list of those who may be potentially affected by this action. 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 Access Electronic Copies of this Document and Other Related Information?*

In addition to using EDOCKET (<http://www.epa.gov/edocket/>), you may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

## II. What Action is EPA taking?

This document reopens the public comment period established in the **Federal Register** issued on June 1, 2005 (FRL-7712-7) (70 FR 31401). In that document, EPA sought comment on a proposed rule revoking 34 exemptions from the requirement of a tolerance that are associated with 31 inert ingredients because, according to Agency records, these substances are no longer contained in active FIFRA pesticide product registrations. EPA is hereby reopening the comment period, which ended on August 1, 2005. Comments are now due on or before August 31, 2005.

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

The proposed rule is issued pursuant to section 408(d) of FFDCA (21 U.S.C. 346a(d)). Section 408 of FFDCA authorizes the establishment of tolerances, exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or tolerance exemption, food containing pesticide residues is considered to be unsafe and therefore “adulterated” under section 402(a) of FFDCA. If food containing pesticide residues is found to be adulterated, the food may not be distributed in interstate commerce (21 U.S.C. 331(a) and 342 (a)).

## IV. Do Any Statutory and Executive Order Reviews Apply to this Action?

No. This action is not a rulemaking, it merely reopens the comment period by which public comments on a proposed rule must be submitted to EPA. For information about the applicability of the regulatory assessment requirements to the proposed rule, please refer to the discussion in Unit IV. of the June 1, 2005 document (70 FR 31403).

### List of Subjects in 40 CFR Part 180

Environmental protection,  
Administrative practice and procedure,

Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 28, 2005.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 05-15606 Filed 8-4-05; 9:07 am]

**BILLING CODE 6560-50-S**

## FEDERAL MARITIME COMMISSION

### 46 CFR Part 531

[Docket No. 05-05]

RIN 3072-AC31

### Non-Vessel-Operating Common Carrier Service Arrangements

August 3, 2005.

**AGENCY:** Federal Maritime Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Maritime Commission is proposing changes to its exemption for non-vessel-operating common carriers (NVOCCs) from the tariff publication requirements of the Shipping Act of 1984. The proposed rule would revise the exemption to allow NVOCCs and shippers' associations with NVOCC members to act as shipper parties in NVOCC Service Arrangements.

**DATES:** Submit original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 10, Microsoft Word 2003, or earlier versions of these applications, no later than August 23, 2005.

**ADDRESSES:** Address all comments concerning this proposed rule to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573-0001, [Secretary@fmc.gov](mailto:Secretary@fmc.gov).

#### FOR FURTHER INFORMATION CONTACT:

Amy W. Larson, General Counsel, Federal Maritime Commission, 800 N. Capitol St., NW., Washington, DC 20573-0001, (202) 523-5740, [generalcounsel@fmc.gov](mailto:generalcounsel@fmc.gov).

#### SUPPLEMENTARY INFORMATION:

### I. Background

On January 19, 2005, a final rule of the Federal Maritime Commission (“FMC” or “Commission”) exempting non-vessel-operating common carriers (“NVOCCs”) from certain tariff publication requirements of the Shipping Act of 1984, 46 U.S.C. app. 1701 *et seq.* (“Shipping Act”), became

effective. 69 FR 75850 (December 20, 2004). The rule was issued pursuant to the Commission's authority under section 16 of the Shipping Act, 46 U.S.C. app. 1715. The exemption enables individual NVOCCs to offer NVOCC Service Arrangements (“NSAs”) to NSA shippers, provided that such NSAs are filed with the Commission and their essential terms are published in the NVOCC's tariff. The rule defines an NSA as “a written contract, other than a bill of lading or receipt, between one or more NSA shippers and an individual NVOCC in which the NSA shipper makes a commitment to provide a certain minimum quantity or portion of its cargo or freight revenue over a fixed time period, and the NVOCC commits to a certain rate or rate schedule and a defined service level.” 46 CFR 531.3(p). The rule also defines an “NSA shipper” as a cargo owner, the person for whose account the ocean transportation is provided, the person to whom delivery is to be made, or a shippers' association. 46 CFR 531.3(o). This definition, however, specifically excludes NVOCCs and shippers' associations with NVOCC members. *Id.*

The Commission previously stated that it would continue to consider how it could remove the limitations on shipper participation while ensuring the criteria of section 16 were met. 69 FR at 75852. The Commission now proposes to remove those limitations.

## II. Discussion

An NVOCC is defined by the Shipping Act as “a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.” 46 U.S.C. app. 1702(17)(B). An NVOCC simultaneously holds two transportation roles—as a carrier vis-à-vis the shipper to which it offers service, and as a shipper vis-à-vis the ocean common carrier from which it obtains service.

The Commission was concerned that a court could interpret section 7(a)(2) of the Shipping Act, 46 U.S.C. app. 1706(a)(2), to immunize NVOCCs acting under filed NSAs from the antitrust laws. *Cf. United States v. Tucor*, 189 F.3d 834 (9th Cir. 1999) (holding 46 U.S.C. app. 1706(a)(4) immunized a price-fixing arrangement among NVOCCs related to the foreign inland provision of services). Therefore, the exemption did not allow NVOCCs either individually or as members of shippers' associations to act as NSA shippers. 46 CFR 531.3(p).

On June 14, 2005, the U.S. Court of Appeals for the Fourth Circuit found, *inter alia*, that price fixing by two