

commenting on this action should do so at this time.

**DATES:** Written comments must be received on or before December 16, 2005.

**ADDRESSES:** Submit comments, identified by Regional Material in EDocket (RME) ID No. R05-OAR-2005-IN-0008, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. Agency Web site: <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

4. Fax: (312) 886-5824.

5. Mail: You may send written comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

6. Hand delivery: Deliver your comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to RME ID No. R05-OAR-2005-IN-0008. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided and may be made available online at <http://docket.epa.gov/rmepub/>, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://regulations.gov), your e-mail address

will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, i.e., 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 either electronically in RME or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. We recommend that you telephone Edward Doty, Environmental Scientist, at (312) 886-6057 before visiting the Region 5 office. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6057, [doty.edward@epa.gov](mailto:doty.edward@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

### I. What Action Is EPA Taking?

EPA is proposing to take several related actions. EPA is proposing to make a determination that the Delaware County, Indiana nonattainment area has attained the 8-hour ozone standard and that Delaware County has met the requirements for redesignation under section 107(d)(3)(E) of the Clean Air Act. EPA is thus proposing to approve a request to change the legal designation of Delaware County from nonattainment to attainment for the 8-hour ozone NAAQS. EPA is also proposing to approve Indiana's maintenance plan as

a SIP revision for Delaware County (such approval being one of the Clean Air Act criteria for redesignation of an area to attainment status). The maintenance plan is designed to keep Delaware County in attainment of the ozone NAAQS for the next 10 years. Additionally, EPA is announcing its action on the Adequacy Process for the newly-established 2015 Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO<sub>x</sub>) MVEBs for this area. The Adequacy comment periods for the 2015 MVEBs began on August 2, 2005, with EPA's posting of the availability of the State's submittal on EPA's Adequacy Web site at: <http://www.epa.gov/otaq/transp/conform/adequacy.htm>. The Adequacy comment period for these MVEBs ended on September 1, 2005. No requests for this submittal or adverse comments on this submittal were received during the Adequacy comment periods. Please see the Adequacy Section of this rulemaking for further explanation on this process. Therefore, we are finding adequate and approving the State's 2015 VOC and NO<sub>x</sub> MVEBs for transportation conformity purposes.

### II. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information, see the Direct Final Rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available electronically at RME or in hard copy at the above address. (Please telephone Edward Doty at (312) 886-6057 before visiting the Region 5 Office.)

Dated: November 9, 2005.

**Margaret Guerriero,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 05-22695 Filed 11-15-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2005-0251; FRL-7741-6]

### Inert Ingredients; Proposal to Revoke 30 Pesticide Tolerance Exemptions for 28 Chemicals

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to revoke 30 exemptions from the requirement of a tolerance that are associated with 28 inert ingredients because these substances are no longer contained in active Federal Insecticide, Fungicide,

and Rodenticide Act (FIFRA) pesticide product registrations. These ingredients are subject to reassessment by August 2006 under section 408(q) of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). Upon the issuance of the final rule revoking the tolerance exemptions, the 30 tolerance exemptions will be counted as "reassessed" for purposes of FFDCA's section 408(q).

**DATES:** Comments must be received on or before January 17, 2006.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number OPP-2005-0251, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov/>. Follow the on-line instructions for submitting comments.

- *Agency Website:* <http://www.epa.gov/edocket/>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- *E-mail:* Comments may be sent by e-mail to [opp-docket@epa.gov](mailto:opp-docket@epa.gov), Attention: Docket ID number OPP-2005-0251.

- *Mail:* Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, Attention: Docket ID number OPP-2005-0251.

- *Hand Delivery:* Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number OPP-2005-0251. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to docket ID number OPP-2005-0251. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA EDOCKET and the [regulations.gov](http://www.regulations.gov)

websites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102) (FRL-7181-7).

*Docket:* All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket/>. Although listed in the index, some information is not publicly available, i.e., 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 either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This 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:** 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; e-mail address: [angulo.karen@epa.gov](mailto:angulo.karen@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 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/fedrgrstr/>. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

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

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, [regulations.gov](http://www.regulations.gov), or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes 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 docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket ID number and other identifying information (subject heading, **Federal Register** date, and page number).
- Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a

Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

## II. Background and Statutory Findings

This 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)).

## III. What Action is the Agency Taking?

EPA is proposing to revoke 30 exemptions from the requirement of a tolerance for 28 inert ingredients because those substances are no longer contained in currently registered pesticide products requiring reassessment under section 408(q) of FFDCA. It is EPA's general practice to revoke tolerances and tolerance exemptions for pesticide chemical residues (which includes both active and inert ingredients) for which there are no associated active registered uses under FIFRA, or for which there are no registered products to which the tolerance or tolerance exemption applies, or for tolerances or tolerance exemptions that have been superseded, unless a person commenting on the proposal indicates a need for the tolerance or exemption to cover residues in or on imported commodities or legally treated domestic commodities.

Listed below are the 28 inert ingredients and their associated 30

tolerance exemptions that are subject to this proposal. EPA is proposing that the revocation of these 30 tolerance exemptions will become effective on the date of the final rule's publication in the Federal Register. For counting purposes, and based on this proposed action, 30 exemptions would be counted as reassessments toward the August 2006 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

1. Ammonium thiocyanate (40 CFR 180.920).

2. Animal waste material (produced by the thermophilic digestion of cattle and poultry manure) (40 CFR 180.920).

3. Butyl benzyl phthalate (40 CFR 180.1062).

4. Condensation product of orthophenylphenol with 5 moles of ethylene oxide (40 CFR 180.920).

5. Coumarone-indene resin, conforming to 21 CFR 172.215 (40 CFR 180.910).

6. Diacetone alcohol (40 CFR 180.920).

7. Diacetyl tartaric acid esters of mono, and diglycerides of edible fatty acids (40 CFR 180.910 and 180.930).

8. 2,2-Dichloro-N-(1,3-dioxolan-2-ylmethyl)-N-2-propenylacetamide (40 CFR 180.1077).

9. Isoamyl acetate (40 CFR 180.920).

10. Methyl ester of rosin, partially hydrogenated (as defined in 21 CFR 172.615) (40 CFR 180.910).

11. Methyl-1-alkylamido ethyl-2-alkyl-imidazolium methyl sulfate (40 CFR 180.1133).

12. 2-[Methyl [(perfluoroalkyl)alkyl(C2-C8)sulfonyl] amino]alkyl(C2-C8) acrylate-alkyl (C2-C8)methacrylates-N-methylolacrylamide copolymer (40 CFR 180.930).

13. Modified polyester resin derived from ethylene glycol, fumaric acid, and rosin (40 CFR 180.910).

14. Montmorillonite-type clay treated with polytetrafluoroethylene (PTFE; CAS Reg. No. 9002-84-0) (40 CFR 180.910).

15. Nitrile rubber modified acrylonitrile methylacrylate (CAS Reg. No. 27012-62-0) conforming to 21 CFR 177.1480 (40 CFR 180.930).

16. Paraformaldehyde (40 CFR 180.920 and 180.930).

17. Pentaerythritol ester of modified resin (40 CFR 180.910).

18. Pentaerythritol stearates mixture (CAS Reg. No. 85116-93-4) which include pentaerythritol monostearate (CAS Reg. No. 78-23-9), pentaerythritol distearate (CAS Reg. No. 13081-97-5), pentaerythritol tristearate (CAS Reg. No. 28188-24-1) and pentaerythritol tetrastearate (CAS Reg. No. 115-83-3) (40 CFR 180.910).

19. Phenolic resins (40 CFR 180.920).

20. Sodium N-lauroyl-N-methyltaurine (40 CFR 180.910).

21. Sodium N-palmitoyl-N-methyltaurine (40 CFR 180.910)

22. Sodium oleyl sulfate (40 CFR 180.910).

23. Sodium salt of partially or completely saponified dark wood rosin (as defined in 21 CFR 178.3870(a)(4)) (40 CFR 180.920).

24. Tannin (40 CFR 180.920).

25. Toluene (40 CFR 180.920).

26. Trimethylolpropane (CAS Reg. No. 77-66-9) (40 CFR 180.920) (Note: This entry in 40 CFR 180.920 has an incorrect CAS number and it will be revoked. The other entry in 40 CFR 180.920 for this chemical has the correct CAS number, is currently being used in pesticide products, and is a candidate for reassessment.)

27. Wood rosin acid, potassium salts, conforming to 21 CFR 178.3870 (40 CFR 180.930).

28. Woolwax alcohol (40 CFR 180.920).

### A. What Can I Do if I Wish to Maintain an Exemption that the Agency is Proposing to Revoke?

EPA's records show that the inert ingredients subject to this proposed rule are not contained in any currently registered pesticide products with uses that would require tolerances or tolerance exemptions under section 408 of FFDCA. Parties who believe that EPA's records are incorrect and that one or more of these ingredients are indeed contained in a currently registered pesticide product are encouraged to submit documentation to EPA in the form of the currently registered pesticide product's accepted Confidential Statement of Formula. Parties who know of a pending registration action for a product that contains an inert ingredient subject to this proposed rule may submit documentation to EPA in the form of a copy of the Agency's letter confirming the receipt of an application for registration or registration amendment for such product. In addition, parties who are currently in the process of developing a pesticide product containing an inert ingredient subject to this proposed rule may submit to EPA a letter asserting their intention to apply for a FIFRA section 3 registration of said product within 2 years. This letter must include documentation of the inclusion of the inert ingredient in the proposed pesticide product, such as a description of the formulation's ingredients, and must confirm their intention to submit an application for registration or registration amendment within 2 years

from the publication date of this proposed rule.

EPA is aware that inert ingredients are also contained in pesticide adjuvant products which are not subject to registration under FIFRA. The Agency does not keep records of currently used adjuvants or their ingredients, therefore, it has been unable to conclusively confirm the use of adjuvants containing one of these inert ingredients. Parties who know of currently used adjuvant products that contain an inert ingredient subject to this proposed rule are encouraged to submit documentation to EPA in the form of the adjuvant product's current label and/or documentation of the registration of the adjuvant product with a State adjuvant registration program.

Also, inert ingredient tolerance exemptions will be retained if the tolerances or exemptions (which EPA refers to as "import" tolerances) are necessary to allow importation into the United States of food containing such residues. Through this proposed rule, the Agency is inviting individuals who need these import tolerance exemptions to identify those exemptions that are needed to cover imported commodities.

EPA will retain an inert ingredient tolerance exemption if the documentation described above is submitted to EPA by the end of the comment period as specified under **DATES** in this document, and the Agency can verify the existence of a currently registered pesticide product, a registration action pending at EPA, an import tolerance, or a currently used adjuvant product that contains the ingredient in question.

Parties interested in the retention of any of the tolerance exemptions subject to this proposed rule should be aware that because these ingredients are currently subject to reassessment under section 408(q) of FFDCA, additional data may be needed to support retention of the exemption. Reassessment activities for such ingredients must be completed by August 2006. If the Agency is unable to determine that the exemptions for these ingredients meet the FFDCA standard for reassessment, the Agency will revoke the exemptions.

#### *B. When Do These Actions Become Effective?*

EPA is proposing that revocation of these tolerance exemptions become effective on the day the final rule revoking these tolerance exemptions is published in the **Federal Register**. If you have comments regarding whether the effective date allows sufficient time for treated commodities to clear the channels of trade, please submit

comments as described under Unit I.C. Similarly, if you have comments regarding these tolerance exemption revocations or the effective date of the revocations, please submit comments as described under Unit I.C. Any commodities treated with the pesticide products containing an inert ingredient subject to this proposed rule, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(i)(5), as established by FQPA. Under this section, any residues of these pesticide chemicals in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration 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.

#### **VI. Statutory and Executive Order Reviews**

In this proposed rule, EPA is proposing to revoke specific tolerance exemptions established under section 408(d) of the FFDCA. 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 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 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 tolerance in this proposed 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 proposed action 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 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 section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this proposed 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 proposed 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 proposed 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: October 28, 2005.

#### Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, it is proposed that 40 CFR chapter I 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), 346a and 371.

#### § 180.910 [Amended]

2. Section 180.910 is amended by removing from the table the entries for:

- a. Coumarone-indene resin, conforming to 21 CFR 172.215;
- b. Diacetyl tartaric acid esters of mono- and diglycerides of edible fatty acids;
- c. Methyl ester of rosin, partially hydrogenated (as defined in 21 CFR 172.615);
- d. Modified polyester resin derived from ethylene glycol, fumaric acid, and rosin;
- e. Montmorillonite-type clay treated with polytetrafluoroethylene (PTFE; CAS Reg. No. 9002-84-0);
- f. Pentaerythritol ester of modified resin;
- g. Pentaerythritol stearates mixture (CAS Reg. No. 85116-93-4) which include pentaerythritol monostearate (CAS Reg. No. 78-23-9), pentaerythritol distearate (CAS Reg. No. 13081-97-5), pentaerythritol tristearate (CAS Reg. No. 28188-24-1) and pentaerythritol tetrastearate (CAS Reg. No. 115-83-3);
- h. Sodium *N*-lauroyl-*N*-methyltaurine; and
- i. Sodium *N*-palmitoyl-*N*-methyltaurine
- j. Sodium oleyl sulfate;

#### § 180.920 [Amended]

3. Section 180.920 is amended by removing from the table the entries for:

- a. Ammonium thiocyanate;
- b. Animal waste material (produced by the thermophilic digestion of cattle and poultry manure);
- c. Condensation product of orthophenylphenol with 5 moles of ethylene oxide;
- d. Diacetone alcohol;
- e. Isoamyl acetate;
- f. Paraformaldehyde;
- g. Phenolic resins;
- h. Sodium salt of partially or completely saponified dark wood rosin (as defined in 21 CFR 178.3870(a)(4));
- i. Tannin;
- j. Toluene;
- k. Trimethylolpropane (CAS Reg. No. 77-66-9) (180.920); and
- l. Woolwax alcohol.

#### § 180.930 [Amended]

4. Section 180.930 is amended by removing from the table the entries for:

- a. Diacetyl tartaric acid esters of mono- and diglycerides of edible fatty acids;
- b. 2-[Methyl (perfluoroalkyl)alkyl(C2-C8)sulfonyl amino]alkyl(C2-C8) acrylate--alkyl (C2-C8)methacrylates-*N*-methylolacrylamide copolymer;
- c. Nitrile rubber modified acrylonitrile methylacrylate (CAS Reg. No. 27012-62-0) conforming to 21 CFR 177.1480;
- d. Paraformaldehyde; and
- e. Wood rosin acid, potassium salts, conforming to 21 CFR 178.3870.

#### §§ 180.1062, 180.1077, and 180.1133 [Removed]

5. Sections 180.1062, 180.1077, and 180.1133 are removed.

[FR Doc. 05-22614 Filed 11-15-05; 8:45 am]

BILLING CODE 6560-50-S

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Parts 173 and 177

[Docket No. PHMSA-2005-22987 (HM-238)]

RIN 2137-AE06

### Hazardous Materials: Requirements for the Storage of Explosives and Other High-Hazard Materials During Transportation

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Advance notice of proposed rulemaking (ANPRM).

**SUMMARY:** PHMSA is considering requirements to address the current

safety and security risks associated with the storage of explosives during transportation. In this notice, we are soliciting comments concerning measures to reduce the risks posed by the storage of explosives while they are in transportation and whether regulatory action is warranted. We also invite comments as to whether enhanced requirements for storage incidental to movement should apply to other hazardous materials (e.g., materials toxic by inhalation).

**DATES:** Comments must be received by February 14, 2006.

**ADDRESSES:** *Comments.* You may submit comments identified by the docket number (PHMSA-2005-22987) by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.

• Web Site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.
- Mail: Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-402, Washington, DC 20590-0001.

• Hand Delivery: To the Docket Management System; Room PL-402 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

*Instructions:* All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this notice. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading under **SUPPLEMENTARY INFORMATION**.

*Docket:* For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to the Docket Management System (see **ADDRESSES**).

**FOR FURTHER INFORMATION CONTACT:** Ben Supko, Office of Hazardous Materials Standards, telephone (202) 366-8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

On July 16, 2002, the Federal Motor Carrier Safety Administration (FMCSA) and the Research and Special Programs Administration (RSPA, the predecessor