the likelihood of residues in processed food exceeding the section 408 tolerance. However, FDA monitoring data, especially monitoring data on processed foods, generally has been limited and thus may not be a reliable predictor of the level of residues of a particular pesticide in a particular processed food.

Market segregation. Several commenters contend that, even where residues could be expected to concentrate in processed food above the section 408 tolerance, if EPA were to permit pesticides to be labeled solely for crops grown for fresh market, no section 409 FAR would be needed for such pesticide uses. These commenters claim that certain crops are so specialized that they are grown specifically for the fresh or processed market, and, in some instances, that even different pesticides are used on crops depending on whether they are intended for the fresh or processed market. Thus, these commenters argue that allowing pesticides to be labeled for crops grown only for the fresh market where a specialized crop has been developed solely for the fresh market would not pose an enforcement problem. On the other hand, EPA received other comments stating that placing such label restrictions on pesticides would subject growers to a form of ''Russian Roulette.'' EPA's observations indicate that it is difficult to achieve total market segregation; however, if a party can show that a market for a specific crop can be segregated and that such segregation can be feasibly monitored, EPA will not require a section 409 FAR for a pesticide on that crop.

5. *Conclusion*. In sum, EPA's concentration policy will continue to focus on ''possible residues'' in the processed food. EPA will place primary emphasis on whether processing studies show that the processing of a commodity results in a level of residues in the processed food which is greater than the level of residues in the raw food. EPA will also consider the variability of the analytical method, the degree of rounding involved in establishing the section 408 tolerance, and, where circumstances permit, information concerning blending of crops and average field trial values, and market basket surveys. EPA will consider information concerning potential market segregation and pesticide segregation, but such segregation must be established by clear evidence. But EPA remains unconvinced at this time that it should give much weight at all to degradation information or the possibility that farmers are applying pesticides at lower application rates or that processors will control whether residues over the section 408 tolerance occur.

VI. Ready To Eat

A. NFPA's Argument and Views of Commenters

The NFPA petition argues that EPA has failed to take into account language in the flow-through provision of FFDCA section 402 specifying that processed food is to be evaluated at the ''ready-to-eat'' stage in determining whether the food exceeds the relevant section 408 tolerance. According to NFPA, the ''ready to eat'' language was added to the statute to ''take care of any particular problem that might be raised with respect to a product that was concentrated or dehydrated.'' (NFPA Petition at 34). In its comments, NFPA proposed a definition of not ready-to-eat food as food ''customarily reconstituted by the consumer or food manufacturer, or [food] sold for use as an ingredient in the preparation of finished foods.'' (Comments of NFPA at 12). Further, NFPA cites several examples from the Code of Federal Regulations and the **Federal Register** in which Federal agencies have used the term ''ready to eat'' to distinguish between various foods.

Except for two comments from State agencies (Florida Department of Agriculture and North Dakota Department of Agriculture), most of the commenters on the NFPA petition assert that EPA's approach of treating any food available for sale as ''ready to eat'' is violative of the plain words of the statute. Many of these commenters also contend that EPA overstated the enforcement difficulties of construing the term ''ready to eat'' more narrowly.

As to the definitional issue, numerous commenters contend that the literal or plain meaning of the term ''ready to eat'' food is food consumed ''as is.'' One commenter quotes the dictionary definitions of ''ready'' and ''eat'' to derive a definition of ''ready to eat'' food as ''prepared for immediate taking through the mouth as food.'' (Comments of Catherine Clay at 1). Many commenters mention specific foods and assert that they were not consumed ''as is.'' In their comments, fruit growers are particularly adamant that juice concentrates are not ''ready to eat.'' (See, e.g., comments of Sun-Diamond Growers at 7 (''People simply do not consume a quart of prune juice concentrate or even a cup of concentrate.'')). Another commenter contends that EPA should focus on what the usual practice was as to foods:

> We suggest that for those food items that are never or seldom consumed in their concentrated forms (e.g., tomato paste, oils, flour, and juice concentrates), Section 402 should be followed * * *. Those few situations in which product might be consumed in the concentrated form do not present an imminent hazard and will not add significantly to the risk calculation.

(Comments of Del Monte Foods at 1).

As to potential enforcement difficulties with following a consumed ''as is'' approach to ''ready to eat,'' several commenters argue that EPA could adopt action levels to determine if processed not ready-to-eat food is adulterated. (Comments of Monsanto; Grocery Manufacturers Association; NFPA). Such action levels would be established using dilution factors that take into account the dilution of pesticide residues as a food is mixed with other foods in processing operations. The dilution factors, these commenters urge, should be based on the most concentrated form of ready-to-eat food that the not- ready-to-eat food was used to produce.

Finally, several commenters claim that commodities such as fruit pomaces and seed hulls which are commonly used as animal feeds are not ''ready to eat.'' According to these commenters, most animal feeds are a blend of different ingredients because commodities such as pomaces and hulls are both nutritionally deficient and unpalatable.

B. EPA's Response

1. *The definitional issue*. EPA has considered NFPA's arguments and the comments received and has examined the previous uses of the term ''ready to eat'' by EPA and other Federal agencies. EPA agrees that the term ''ready to eat'' food has a common-sense meaning of food which is consumed without further preparation. EPA intends to apply that interpretation in future actions. Basically, EPA believes that food should be considered ''ready to eat'' if it is consumed ''as is'' or is added to other ready-to-eat foods (e.g., condiments). Use of this interpretation, of course, will not clarify all issues regarding ''ready to eat'' foods. EPA envisions that this definition may be difficult to apply in many instances.

Some foods will be easier to classify than others. EPA has, in the past, established section 409 FARs for some foods that clearly do not meet a common-sense interpretation of ''ready to eat'', and EPA did so without closely considering what level of residue would occur in derivative foods which are ''ready to eat.'' Examples would include dried hops, mint oil, citrus oil, and guar