

(i) Incorporation by reference.

(A) Revised rules, "Iowa Administrative Code," effective January 12, 1994. This revision approves an amendment to paragraph 23.2(3)g pertaining to open fires burned for the purpose of training fire-fighting personnel.

(B) Revised rules, "Iowa Administrative Code," effective April 20, 1994. This revision approves amendments to rules 22.4; 23.3(2)d (3) and (4); 23.4(6); and 25.1(9). These rules concern the update of the state's incorporation of prevention of significant deterioration and test method requirements.

(ii) Additional material. None.

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40 CFR Parts 52 and 81

[WV 23-1-6820, WV23-2-6821; FRL-5124-4]

Approval and Promulgation of Air Quality Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Redesignation of the Huntington West Virginia Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This SIP revision approves a maintenance plan for the Huntington area including contingency measures which provide for continued attainment of the ozone National Ambient Air Quality Standard (NAAQS). The intended effect of this action is to approve a redesignation request of the area from moderate ozone nonattainment to ozone attainment and to approve a maintenance plan for the area. This action will also remove any sanctions imposed on the Huntington area under section 179 of the Clean Air Act, as amended in 1990 (the Act). This action is being taken in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This rule will become effective on December 21, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency

Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW Washington, DC 20460; West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Ruth Knapp at (215) 597-8375 or Todd Ellsworth at (215) 597-2906.

SUPPLEMENTARY INFORMATION: On September 6, 1994 (59 FR 46019), EPA published a Notice of Proposed Rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of the maintenance plan and redesignated the Huntington area to attainment for ozone. The formal request for redesignating the Huntington moderate ozone nonattainment area to attainment and the maintenance plan SIP revision were submitted to EPA by the State of West Virginia on November 12, 1992. On February 22, 1994 and August 10, 1994 West Virginia provided clarifying revisions to its maintenance plan. The maintenance plan for the Huntington area provides for emissions tracking, triggers to implement contingency measures, and a schedule for implementing the measures. In the event that exceedances of the ozone NAAQS are measured such that nonattainment is indicated at any of the three monitors in the Huntington-Ashland area or in the event that periodic emissions inventory updates or major permitting activity reveals that excessive or unanticipated growth in ozone precursor emissions has occurred or will occur, West Virginia will accordingly select and adopt additional control measures.

The specific requirements for the redesignation and maintenance plan and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. Two letters supporting the redesignation and maintenance plan were received, and one adverse comment letter was received on the NPR. Following are the comments that were submitted relevant to EPA's action to redesignate the Huntington area and to approve the maintenance plan. EPA responses follow each comment.

Comment #1: The Commonwealth of Kentucky supports the request to redesignate the West Virginia portion of the Huntington-Ashland moderate ozone nonattainment area to attainment. In conjunction with Kentucky's request to redesignate the Kentucky portion of the Huntington-Ashland moderate

ozone nonattainment area to attainment, West Virginia's maintenance plan and contingency measures meet the U.S. EPA's criteria and guidance to ensure that the air quality in this area will be preserved.

Response #1: EPA acknowledges this comment.

Comment #2: Columbia Gas Transmission Corporation (Columbia) wishes to strongly support the proposed redesignation to ozone attainment of the Huntington, West Virginia area (Wayne and Cabell Counties). In view of the fact that there have been no violations of the ozone standard in the Huntington area since the 1989 ozone season, it is appropriate for this redesignation to be approved. The maintenance and contingency plans should assure continued attainment will be maintained.

Response #2: EPA acknowledges this comment.

Comment #3: The Ohio Valley Environmental Coalition (OVEC) commented that contingency measures of the maintenance plan are not adequate to assure attainment since the exact causes of ozone nonattainment in this area are not well understood.

Response #3: As stated in the NPR, EPA believes that the criteria of sections 107(d)(3)(E)(iii) and 175A have been met by the Huntington area. The Huntington area has not recorded an ozone violation in the last five years. During this period, permanent and enforceable reductions in ozone precursors occurred. As part of their maintenance plan, West Virginia will carefully track precursor emissions. If for any reason, a substantial increase in emissions occurs or if ozone violations are recorded, the contingency measures in the maintenance plan allow the State to choose the most appropriate measure(s) to deal with the situation. The combination of emissions tracking and available contingency measures will allow the State to mitigate future problems should they occur.

Comment #4: OVEC also commented that the first two measures of the contingency plan which include extending the VOC/RACT requirement to sources previously excluded and requiring more stringent controls and/or emissions offsets for new sources should be implemented immediately.

Response #4: The Huntington area has not had any ozone violations for five years. Permanent and enforceable reductions in ozone precursor emissions have occurred, and negative growth is expected in the area. This information indicates that the area will continue to maintain the ozone standard in the future, and that the contingency

measures do not need to be implemented at this time.

Comment #5: OVEC also commented that NO_x emissions estimates in the area appear to be low, and more study is needed to determine if additional NO_x RACT requirements would help reduce ozone.

Response #5: The NO_x emission estimates for the Huntington area were determined through the application of current EPA emission inventory guidance. Therefore, these emission estimates are considered by EPA to accurately represent NO_x emissions for the area. If substantial increases in emissions of NO_x were to occur, the appropriate contingency measure(s) would be used to reduce the emissions of this ozone precursor.

Comment #6: OVEC also commented that the emission caps to be set for existing plants as described as contingency measures should be set now, including a cap for the largest stationary source which is in Kentucky.

Response #6: West Virginia has time to determine how caps would be set, when and if it were necessary to choose this contingency measure. West Virginia cannot set emission caps for sources in Kentucky. Detailed information about the maintenance plan for Kentucky's portion of the ozone nonattainment area will appear in the separate notice prepared by EPA Region IV.

Comment #7: OVEC commented that the contingency measures related to Stage II and vehicle inspection and maintenance (I/M) programs do not address the main stationary sources of ozone precursors. These programs are costly and would not be productive.

Response #7: For the past five years, Huntington has not experienced violations of the ozone standard due to reductions in mobile emissions. While current predictions do not indicate future increases in mobile emissions, contingency measures such as Stage II and I/M could provide a cost effective means of offsetting potential emissions increases from mobile and/or stationary source growth.

Comment #8: OVEC commented that until all causes of the ozone problem are understood in detail, no contingency plan is adequate.

Response #8: As previously mentioned, the Huntington area has not had a violation of the ozone standard in five years. Permanent and enforceable reductions have occurred, and future predictions indicate that emissions from all source categories will remain below emissions for these sources in the base attainment year of 1993. Therefore it is unlikely that ozone problems will occur again. However, in order to maintain

attainment, the state will carefully track and periodically update the emissions inventory for the area. If substantial growth of emissions occurs or if ozone violations are recorded, the contingency measures will be examined and an appropriate measure(s) will be implemented. Since emissions of both VOC and NO_x are being tracked and the list of contingency measures covers both precursor pollutants and a variety of source categories, the state can determine which sources need to be controlled and which measures need to be implemented.

Final Action

EPA is approving the ozone maintenance plan for the Huntington (Cabell and Wayne counties) area of West Virginia submitted on November 12, 1992, as revised on February 22, 1994 and August 10, 1994 because it meets the requirements of Section 175A. In addition, the Agency is redesignating the Huntington area to ozone attainment because the Agency has determined that the provisions of Section 107(d)(3)(E) of the Act for redesignation have been met.

Because it was a nonattainment area on January 15, 1993 EPA notified the Governor of West Virginia that it had made a finding that West Virginia had failed to submit either a full or committal SIP revision for a basic inspection and maintenance (I/M) program for the Huntington portion of the ozone nonattainment area. Similarly on January 18, 1994, EPA notified the Governor that West Virginia had failed to submit a 15% plan for the area. These findings commenced the sanctions process outlined by section 179 of the Act. The 2:1 offset sanction has been in effect in the Huntington area since September 6, 1994 as a result of the January 15, 1993 finding. Upon the effective date of this final approval by EPA of West Virginia's redesignation request and maintenance plan, the requirement for West Virginia to submit a basic I/M program and 15% plan for this area will be lifted. Upon that same effective date, both findings will be automatically rescinded in the Huntington area and any sanctions imposed as of that date will be lifted.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve West Virginia's redesignation request and maintenance plan for the Huntington portion of the Huntington-Ashland ozone nonattainment area must be filed in the United States Court of Appeals for the appropriate circuit by February 21, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone.

40 CFR Part 81

Air pollution control, National parks.
Dated: December 6, 1994.

Peter H. Kostmayer,

Regional Administrator, Region III.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart XX—West Virginia

2. Section 52.2520 is amended by adding paragraph (c)(30) to read as follows:

§ 52.2520 Identification of plan.

(c)

(30) The ten year ozone maintenance plan including emission projections and contingency measures for Huntington, West Virginia (Cabell and Wayne counties) as revised and effective on August 10, 1994 and submitted by the West Virginia Division of Environmental Protection:

(i) Incorporation by reference.

(A) The ten year ozone maintenance plan including emission projections and contingency measures for Huntington, West Virginia (Cabell and Wayne counties) revised and effective on August 10, 1994.

PART 81—[AMENDED]

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart C—Section 107 Attainment Status Designations

4. In § 81.349 the ozone table is amended by revising the entry for "Cabell County" and "Wayne County" to read as follows:

§ 81.349 West Virginia.

WEST VIRGINIA—OZONE

Designated area	Designation		Classification	
	Date	Type	Date	Type
Huntington-Ashland Area:				
Cabell County	December 21, 1994	Unclassifiable/Attainment
Wayne County	December 21, 1994	Unclassifiable/Attainment

This date is November 15, 1990, unless otherwise noted.

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40 CFR Part 180

[OPP-300364A; FRL-4923-3]

RIN 2070-AB78

Acrylic Acid-Stearyl Methacrylate Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of acrylic acid-stearyl methacrylate copolymer (CAS Reg. No. 27756-15-6) when used as an inert ingredient (emulsifier, suspending agent, or rheology modifier) in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, or animals. B.F. Goodrich Co. petitioned for this regulation.

EFFECTIVE DATE: This regulation becomes effective December 21, 1994

ADDRESSES: Written objections, identified by the document control number [OPP 300364A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency Rm. M3708, 401 M St., SW Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing request ..

to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251

FOR FURTHER INFORMATION CONTACT: By mail: Tina Levine, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Floor, Arlington, VA 22202, (703)-308-8393

SUPPLEMENTARY INFORMATION: In the Federal Register of November 2, 1994 (59 FR 54872), EPA issued a proposed rule that gave notice that the B.F. Goodrich Co., 3925 Embassy Parkway, Akron, OH 44313-1799, had submitted pesticide petition (PP) 4E4298 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), propose to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for residues of acrylic acid-stearyl methacrylate copolymer (CAS Reg. No. 27756-15-6) when used as an inert ingredient (emulsifier, suspending agent, or rheology modifier) in pesticide formulations applied to growing crops, or to raw agricultural commodities after harvest, or to animals

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own) solvents such as alcohols and

hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth, thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted relevant to the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemptions will protect the public health. Therefore, the tolerance exemptions are established as set forth below.

Any person adversely affected by this regulation may within 30 days after publication of this document in the Federal Register, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied