

of attorneys and law students in grades GS-15 and below, to appoint special attorneys and special assistants to the Attorney General pursuant to 28 U.S.C. 515(b), to appoint Assistant United States Trustees and fix their compensation, and to take final action in matters pertaining to the appointment, employment, separation, and general administration of Assistant United States Attorneys and other attorneys to assist United States Attorneys when the public interest so requires and to fix their salaries.

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(e) The officials to whom the Deputy Attorney General delegates authority under paragraph (c) of this section and any of the officials who may be otherwise authorized by the Deputy Attorney General to perform any other attorney personnel duties may redelegate those authorities and duties.

\* \* \* \* \*

Dated: February 9, 1995.

**Janet Reno,**

*Attorney General.*

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BILLING CODE 4410-01-M

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[WA24-1-6519a; FRL-5143-7]

**Approval and Promulgation of Implementation Plans; Washington**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** Environmental Protection Agency (EPA) approves certain regulations of the Northwest Air Pollution Authority (NWAPA) for the control of air pollution in Island, Skagit, and Whatcom Counties, Washington, as revisions to the Washington State Implementation Plan (SIP). These regulations were submitted by the Director of the Washington State Department of Ecology (WDOE) on January 10, 1994. In accordance with Washington statutes, NWAPA rules must be at least as stringent as the WDOE statewide rules.

**DATES:** This final rule will be effective on April 24, 1995 unless adverse or critical comments are received by March 24, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments should be addressed to:

Montel Livingston, SIP Manager, Air Programs Branch (AT-082), EPA, Docket # WA24-1-6519, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air Programs Branch, 1200 Sixth Avenue (AT-082), Seattle, Washington 98101, and Washington Department of Ecology, PO Box 47600, Olympia, Washington 98504.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Cooper, Air Programs Branch (AT-082), EPA, Region 10, Seattle, Washington 98101, (206) 553-6917.

**SUPPLEMENTARY INFORMATION**

**I. Background**

On January 10, 1994, the Director of WDOE submitted to EPA Region 10 revised and updated regulations for NWAPA affecting Island, Skagit, and Whatcom Counties. NWAPA and WDOE held joint public hearings on April 14, 1993 and September 8, 1993, to receive public comment on the revisions to NWAPA's rules and the submittal to EPA as a revision to the Washington SIP.

These regulations cover such subjects as the adoption of State laws and rules, criminal and civil penalties, notice of construction procedures, registration classes, volatile organic compounds (VOC) controls, and others (please see Description of Plan Revisions, below). NWAPA requested that the WDOE submit these additions for incorporation into the Washington State SIP in an effort to prepare NWAPA for implementation of the operating permit program. EPA granted interim approval to NWAPA's operating permit program effective December 9, 1994. See 59 FR 55813 (November 9, 1994).

**II. Description of Plan Revisions**

The NWAPA amendments submitted by WDOE on January 12, 1994 for inclusion into the Washington SIP are local air pollution regulations which WDOE has certified are at least as stringent as the statewide rules of the WDOE. This rulemaking action approves portions of NWAPA's regulations related to the control of criteria pollutants under section 110 of the Act. EPA is taking no action on certain other portions of NWAPA's

regulation. In this rulemaking, EPA is approving the following sections:

- 100 Name of Authority
- 101 Short Title
- 102 Policy
- 103 Duties and Powers
- 104.1 Adoption of State Laws and Rules
- 105 Separability
- 106 Public Records
- 110 Investigation and Studies
- 111 Interference or Obstruction
- 112 False and Misleading Oral Statement—Unlawful Reproduction or Alteration of Documents
- 113 Service of Notice
- 114 Confidential Information
- 120 Hearings
- 121 Orders
- 122 Appeals from Orders or Violations
- 123 Status of Orders on Appeal
- 124 Display of Orders, Certificates, and other Notices—Removal or Mutilation Prohibited
- 130 Citations—Notices
- 131 Violation—Notices
- 132 Criminal Penalty
- 133 Civil Penalty
- 134 Restraining Orders—Injunctions
- 135 Additional Enforcement—Compliance Schedules
- 140 Reporting by Government Agencies
- 145 Motor Vehicle Owner Responsibility
- 150 Pollutant Disclosure—Reporting by Air Contaminant Sources
- 180 Sampling and Analytical Methods/References
- 200 Definitions
- 300 Notice of Construction when Required
- 301 Information Required for Notice of Construction and Application for Approval, Public Notice, Public Hearing
- 302 Issuance of Approval or Order
- 303 Notice of Completion—Notice of Violation
- 310 Approval to Operate Required
- 320 Registration Required
- 321 General Requirements for Registration
- 322 Exemptions from Registration
- 323 Classes of Registration
- 324 Fees (except for section 324.121)
- 325 Transfer
- 340 Report of Breakdown and Upset
- 341 Schedule Report of Shutdown or Startup
- 342 Operation and Maintenance
- 360 Testing and Sampling
- 365 Monitoring
- 366 Instrument Calibration
- 400 Ambient Air Standards—Forward
- 401 Suspended Particulate Standards (PM-10)
- 410 Sulfur Oxide Standards
- 420 Carbon Monoxide Standards
- 421 Nitrogen Oxide Standards
- 424 Ozone Standard
- 450 Emission Standards—Forward
- 451 Emission of Air Contaminant—Visual Standard
- 452 Motor Vehicle Visual Standards (except for section 452.5.)
- 455 Emission of Particulate Matter
- 458 Incinerators—Wood Waste Burners
- 460 Weight/Heat Rate Standard—Emission of Sulfur Compounds
- 462 Emission of Sulfur Compounds
- 466 Portland Cement Plants

- 510 Incinerator Burning
- 520 Sulfur Compounds in Fuel
- 550 Preventing Particulate Matter from Becoming Airborne
- 560 Storage of Organic Liquid
- 580 Volatile Organic Compound Control

The following discussion highlights elements of NWAPA's rules that EPA is approving: Section 104.1—Adoption of State Laws and Rules, allows NWAPA to position itself as the primary enforcement agency for the three counties under its jurisdiction. Sections 132 and 133—Criminal Penalty and Civil Penalty, respectively, reflect changes in Washington's Clean Air Act. Maximum fines have increased from \$1,000 to \$10,000, and civil penalties have been adjusted based on the consumer price index. Timely submittal of information on emissions is the subject of Section 150, which states that if industries do not comply in a timely fashion, fees will be based on potential rather than actual emissions. Sections 300 through 310 establish a preconstruction review program which requires the submittal of a "Notice of Construction and Application for Approval" and receipt of an "Order of Approval" prior to the construction or modification of most air contaminant sources. An "Order of Approval" will be issued after public notice and opportunity for comment, if applicable, provided the new or modified source complies with all applicable State and Federal requirements. Note, however, that the NWAPA regulations do not contain any provisions to implement the major source permitting requirements of Title I, Part C, and Part D of the Act. There are currently no nonattainment areas in NWAPA's jurisdiction and the WDOE implements the Part C "Prevention of Significant Deterioration" permit program under a delegation from EPA. Sections 320 through 325 require the registration of air contaminant sources, and impose an annual registration fee and other fees to cover the costs of regulating sources. "Preventing Particulate Matter from Becoming Airborne," Section 550, aims at preventing material from being deposited in public roadways that may result in fugitive dust problems. Volatile organic compounds (VOCs) are controlled by Section 580, which establishes BACT for all new VOC sources. This section covers petroleum refineries, high vapor pressure volatile organic compound storage tanks, gasoline loading terminals, bulk gasoline plants, gasoline stations, cutback asphalt paving, petroleum refinery equipment leaks, high vapor pressure volatile organic compound storage in external floating roof tanks,

leaks from gasoline transport tanks and vapor control systems.

Finally, EPA is taking no action on the following sections which were included in the January 10, 1994 submittal but do not relate to the control of criteria air pollutants under section 110 of the Act.

- 104.2 Adoption of Federal rules
- 312 Environmental Policy Guidelines
- 324.121 Fees (operating permits)
- 326 Operating Permits
- 350 Variances
- 402 Particulate Fallout Standards
- 426 Hydrocarbons
- 428 Hazardous Air Pollutants
- 452.5 Motor vehicle standards for odor
- 465 Sulfuric Acid Plants
- 470 Fluorides
- 600 to 603 Objectives and Planning Criteria

In its January 10, 1994 submission, NWAPA did not submit its rules regarding open burning (Section 501—Outdoor Burning; Section 504—Outdoor Fires—Grass Seed Fields; Section 511—Refuse Burning Equipment—Time Restriction) and for concealment and masking (Section 540—Emission of Air Contaminant—Concealment and Masking) for inclusion in the SIP. Therefore, the statewide rules for open burning and concealment and masking apply within NWAPA's jurisdiction.

### III. Summary of EPA Action

In this action, EPA approves the following sections of the NWAPA rules as revisions to the Washington SIP: 100, 101, 102, 103, 104.1, 105, 106, 110, 111, 112, 113, 114, 120, 121, 122, 123, 124, 130, 131, 132, 133, 134, 135, 140, 145, 150, 180, 200, 300, 301, 302, 303, 310, 320, 321, 322, 323, 324, 325, 340, 341, 342, 360, 365, 366, 400, 401, 410, 420, 421, 424, 450, 451, 452 (except for 452.5.), 455, 458, 460, 462, 466, 510, 520, 550, 560, and 580.

### IV. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I

certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 24, 1995 unless, by March 24, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 24, 1995.

The EPA has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP 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 3 action 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 must be filed in the United States Court of Appeals for the appropriate circuit by April 24, 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), 42 U.S.C. 7607(b)(2).)

**List of Subjects in 40 CFR Part 52**

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, Volatile organic compounds.

**Note:** Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: January 9, 1995.

**Chuck Clarke,**

*Regional Administrator.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

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

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

**Subpart WW—Washington**

2. Section 52.2470 is amended by adding paragraph (c) (50) to read as follows:

**§ 52.2470 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(50) By a letter dated December 29, 1993, the Director of WDOE submitted to the Regional Administrator of EPA a revision to the Washington SIP updating the regulations from the Northwest Air Pollution Authority.

(i) Incorporation by reference.

(A) The December 29, 1993 letter from the Director of the Washington State Department of Ecology submitting the Northwest Air Pollution Authority Regulations as a revision to the Washington SIP.

(B) Regulations of the Northwest Air Pollution Authority—sections 100, 101, 102, 103, 104.1, 105, 106, 110, 111, 112, 113, 114, 120, 121, 122, 123, 124, 130, 131, 132, 133, 134, 135, 140, 145, 150, 180, 200, 300, 301, 302, 303, 310, 320, 321, 322, 323, 324, 325, 340, 341, 342, 360, 365, 366, 400, 401, 410, 420, 421, 424, 450, 451, 452 (except for 452.5.), 455, 458, 460, 462, 466, 510, 520, 550,

560, and 580, effective on September 8, 1993.

[FR Doc. 95-3862 Filed 2-21-95; 8:45 am]  
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**40 CFR Part 180**

[OPP-300366A; FRL-4925-1]

RIN 2070-AB78

**Pesticide Tolerances for 2,3-Dihydro-2,2-Dimethyl-7-Benzofuranyl-N-Methylcarbamate**

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

**ACTION:** Final rule.

**SUMMARY:** This document establishes a time-limited tolerance for residues of the insecticide 2,3-dihydro-2,2-dimethyl-7-benzofuranyl-N-methylcarbamate (common name “carbofuran”) and its metabolites in or on canola at 1.0 part per million (ppm) with an expiration date of 2 years after the beginning of the effective date of the rule. EPA is issuing this rule on its own initiative.

**EFFECTIVE DATE:** This regulation becomes effective February 22, 1995.

**ADDRESSES:** Written objections, identified by the document control number, [OPP-300366A], 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 requests 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: Dennis H. Edwards, Jr., Product Manager (PM) 19, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6386.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of November 8, 1994

(59 FR 55605), EPA issued a proposed rule that gave notice that on its own initiative and under section 408(e) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(e), it proposed a time-limited tolerance for the residues of carbofuran and its metabolites in or on canola at 1.0 ppm. EPA proposed a tolerance because State registrations for the use of carbofuran on canola exist. However, because of EPA’s continuing concern for the risk to birds posed by carbofuran use, the Agency is limiting the number of States in which granular carbofuran may be used on canola, and may take regulatory action in the near future to further restrict carbofuran use. Additional registrations will not be permitted until EPA has reached a decision on whether the canola use poses unreasonable risks to birds and wildlife and whether additional restrictions are necessary. The Agency intends to conduct the necessary risk and benefit assessments and anticipates a decision before the 1996 use season.

There are three Special Local Need registrations under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136v(c). Registrations associated with this time-limited tolerance will be regionally restricted to Idaho, Minnesota, Montana, North Dakota, and Washington.

The use of granular carbofuran under this tolerance will be limited to the 1995 growing season because additional residue data have to be submitted for the Agency to make its determination that the tolerance will be protective of the public health. As discussed in the proposed rule, the reference dose is exceeded for nonnursing infants and children ages 1 to 6 if it is assumed that all canola will contain tolerance level residues. EPA believes this assumption overstates the risk. EPA has requested additional data to confirm its view that the risk estimate is overstated. The Interregional Research Project No. 4 (IR-4) is currently conducting residue trials in the U.S. and plans to submit a petition for a permanent tolerance in the spring. EPA will not establish a permanent tolerance until it has received and evaluated the residue data.

Over 100 comments were received in response to the proposed rule. All were in support of establishing the tolerance.

The data submitted on 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 time-limited tolerance will protect the public health. Therefore, the time-limited tolerance is established as set forth below.