Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a ''major rule'' as defined by section 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: April 18, 1996.

Felicia Marcus,

Regional Administrator.

Subpart F of Part 52, 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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(194)(i)(A)(*5*), (207)(i)(B)(*3*), (220)(i)(B)(*1*), and (225)(i)(B)(*4*) and (C)(*1*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(194) * * *

(i) * * *

(A) * * *

(*5*) Rule 74.20, adopted on June 8, 1993.

* * * * *

(207) * * *

(i) * * *

(B) * * *

(*3*) Rule 215, adopted on September 27, 1994.

* * * * *

(220) * * *

(i) * * *

(B) * * *

(*1*) Rule 218, adopted on February 9, 1995.

* * * * *

(225) * * *

(i) * * *

(B) * * *

(*4*) Rule 235, adopted on June 8, 1995.

* * * * *

(C) * * *

(*1*) Rules 236 and 237, adopted on July 25, 1995 and June 27, 1995, respectively.

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[FR Doc. 96–18203 Filed 7–17–96; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 52

[OR–54–7269a; FRL–5515–3]

Approval and Promulgation of Implementation Plans: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) approves a revision to the State of Oregon Implementation Plan. EPA is approving, as required by the Clean Air Act, a source-specific Reasonably Available Control Technology (RACT) volatile organic compound (VOC) emissions standard for the Intel Corporation semiconductor manufacturing facility in Portland, Oregon.

DATES: This action is effective on September 16, 1996 unless adverse or critical comments are received by August 19, 1996. 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, Office of Air Quality (OAQ–107), EPA Region 10, 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, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ–107), Seattle, Washington 98101, and the Oregon Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Angela McFadden, Office of Air Quality (OAQ–107), EPA Region 10, Seattle, Washington 98101, phone (206) 553–6908.

SUPPLEMENTARY INFORMATION:

I. Background

Section 172 (a)(2) and (b)(3) of the Clean Air Act, as amended in 1977 (1977 Act), required sources of VOC to install, at a minimum, RACT in order to reduce emissions of this pollutant. EPA has defined RACT as the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53761, September 17, 1979). EPA has developed Control Technology Guidelines (CTGs) for the purpose of informing State and local air pollution control agencies of air pollution control techniques available for reducing emissions of VOC from various categories of sources. Each CTG contains recommendations to the States of what EPA calls the ''presumptive norm'' for RACT. This general statement of agency policy is based on EPA's evaluation of the capabilities of, and problems associated with, control technologies currently used by facilities within individual source categories. EPA has recommended that the States adopt requirements consistent with the presumptive norm level.

On March 3, 1978, the entire Portland-Vancouver Interstate Air Quality Maintenance Area was designated by EPA as a nonattainment area for ozone. The Portland-Vancouver Interstate Air Quality Maintenance Area contains the urbanized portions of three counties in Oregon (Clackamas, Multnomah, and Washington) and one county (Clark) in the State of Washington.

The 1977 Act required States to submit plans to demonstrate how they would attain and maintain compliance with national ambient air standards for those areas designated nonattainment. The 1977 Act further required these plans to demonstrate compliance with primary standards no later than December 31, 1982. An extension up to December 31, 1987, was possible if the State could demonstrate that, despite implementation of all reasonably available control measures, the December 31, 1982, date could not be met.

On October 7, 1982, EPA approved the Portland-Vancouver area ozone attainment plan, including an extension of the attainment date to December 31, 1987 (47 FR 44262).

On June 15, 1988, pursuant to Section 110(a)(2)(H) of the pre-amended Clean Air Act, former EPA Regional Administrator Robie Russell notified the State of Oregon by letter that the State

Implementation Plan (SIP) for the Portland-Vancouver area was substantially inadequate to provide for timely attainment of the NAAQS. In that letter, EPA identified specific actions needed to correct deficiencies in State regulations representing RACT for sources of VOC. Further, the Clean Air Act, as amended in 1990 (amended Act), also requires States to correct deficiencies. In amended Section 182(a)(2)(A), Congress statutorily adopted the requirement that ozone nonattainment areas fix their deficient RACT rules for ozone. Areas designated nonattainment before the effective date of the amendments, and which retained that designation and were classified as marginal or above as of the effective date, are required to meet the RACT fix-up requirement. Under Section 182(a)(2)(A), States with such nonattainment areas were mandated to correct their RACT requirements by May 15, 1991. The corrected requirements were to be in compliance with Section 172(b) as it existed before the amendments and as that section was interpreted in the pre-amendment guidance. The SIP call letter interpreted that guidance and indicated corrections necessary for specific nonattainment areas. The Portland part of the Portland-Vancouver nonattainment area is classified as marginal. Therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991, deadline.

On May 15, 1991, the State of Oregon submitted Oregon Administrative Rules (OAR) 340–22–100 through 340–22–220, General Emission Standards for Volatile Organic Compounds, as an amendment to the Oregon SIP. On October 7, 1982, EPA approved these revisions to the Oregon SIP (58 FR 50848).

On November 20, 1995, the State of Oregon submitted a source-specific RACT VOC emissions standard for the Intel Corporation semiconductor manufacturing facility in Portland, Oregon. This RACT determination limits VOC emissions from the solvent cleaning stations at the Intel Corporation semiconductor manufacturing facility in Portland, Oregon, to 0.0002 pounds per square centimeter of wafer processed, and requires that each sink operate with a freeboard ratio of at least 0.7, have a visible fill line, and be equipped with a cover that is readily opened and closed, and that the cover be closed during idle periods if the sink contains any free standing solvents (refer to Page 11 of operating permit #34–2681, issued to Intel Corporation by the Oregon Department of Environmental Quality). This Federal Register document is to propose approval of the rule revision as an amendment to the SIP.

II. This Action

EPA is approving the revision to the State of Oregon Implementation Plan submitted on November 20, 1995, as an amendment. The RACT determination meets all of the applicable requirements of the Act as determined by EPA.

III. 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. *E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted on by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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 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 a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

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 September 16, 1996 unless, by August 19, 1996, 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 September 16, 1996.

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 by September 16, 1996. 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

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Volatile organic compounds.

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

Dated: May 22, 1996.

Jane S. Moore,

Acting Regional Administrator.

Part 52, 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 MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(114) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * * (114) On November 20, 1995, the Director of the Oregon Department of Environmental Quality (ODEQ) submitted a Reasonably Available Control Technology Standards (RACT) determination for VOC emissions from the Intel Corporation facility in Portland, Oregon.

(i) Incorporation by reference.

(A) The letter dated November 20, 1995, from the Director of ODEQ submitting a SIP revision for a RACT determination contained in Intel's Oregon Title V Operating Permit for VOC emissions, consisting of permit # 34–2681 expiration date 10–31–99, page 11 of 32 pages, effective date September 24, 1993 (State-effective date of the Oregon Title V Program).

[FR Doc. 96–18201 Filed 7–17–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[PP 5F4486/R2249; FRL–5381–1]

RIN 2070–AB78

Dihydroazadirachtin; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement for a tolerance for residues of the biochemical pesticide dihydroazadirachtin in or on all raw agricultural commodities when applied as an insect growth regulator and/or antifeedant in accordance with good agricultural practices. This exemption was requested by AgriDyne Technologies, Inc.

EFFECTIVE DATE: This regulation becomes effective July 18, 1996.

ADDRESSES: Written objections and hearing requests, identified by the docket number, [PP 5F4486/R2249], 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 docket 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.

An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [PP 5F4486/R2249] . No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Paul Zubkoff, Registration Action Leader (RAL), Biopesticides and Pollution Prevention Division (7501W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 5-W54, CS #1, 2800 Crystal Drive, Arlington, VA 22202. 703–308–8694; e-mail: zubkoff.paul@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 1, 1996 (61 FR 3696), EPA issued a notice (FRL–4994–3) that AgriDyne Technologies, Inc., 2401 South Foothill Drive, Salt Lake City, UT (represented by E.R. Butts International, Inc. of 26 Sherman Court, P.O. Box 764, Fairfield, CT 06430) had submitted pesticide petition (PP) 5F4486 to EPA proposing to amend 40 CFR part 180 by establishing a regulation pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FF DCA), 21 U.S.C. 346a(d), to exempt from the requirement of a tolerance the residues of the of the biochemical pesticide dihydroazadirachtin in or on all raw agricultural commodities when applied as an insect growth regulator and/or antifeedant in accordance with good agricultural practices.

There were no adverse comments, or requests for referral to an advisory committee received in response to this notice of filing.

22,23-Dihydroazadirachtin and its related metabolites are extracts of the seed kernels of the neem tree, *Azadirachtin indica*, are chemically similar to azadirachtin, the naturally-occurring neem plant extract, but differ by a single double bond, and are biologically equivalent to azadirachtin in its functionality when tested as a growth regulator against the Mexican bean beetle, *Epilachna varivestis*. Additionally, azadirachtin is exempted from the requirement of a tolerance when used as a pesticide at 20 grams or less per acre on all raw agricultural commodities (40 CFR 180.1119).

The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the exemption from the requirement of a tolerance include: an acute oral toxicity study in rats, an acute dermal study in rabbits, an acute inhalation study in rats, a primary eye irritation study in rabbits, a primary dermal irritation study in rabbits, a dermal sensitization test (Buehler) in guinea pigs, a battery of genotoxicity