

requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### **PART 165—[AMENDED]**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. A temporary section, 165.T01-047, is added to read as follows:

#### **§ 165.T01—CGD1-047; New Haven Harborfest Fireworks Display, New Haven, CT.**

(a) *Location.* The safety zone includes all waters of New Haven Harbor within a 1200 foot radius of the fireworks barge, located approximately 1000 feet east of Long Wharf in New Haven Harbor, in New Haven, CT., in approximate position 40°17'31" N, 072°54'49" W. (NAD 1983)

(b) *Effective date.* This section is effective on July 4, 1997, from 9 p.m. until 10 p.m., unless terminated sooner by the Captain of the Port, Long Island Sound. In case of inclement weather, this regulation will be effective on July 5, 1997, at the same times.

(c) *Regulations.* The general regulations contained in section 165.23 apply.

Dated: June 16, 1997.

#### **P.K. Mitchell,**

*Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.*

[FR Doc. 97-17389 Filed 7-1-97; 8:45 am]

BILLING CODE 4910-14-M

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[TN 104-1-9706(b); TN 148-1-9705(b); FRL-5849-1]

#### **Approval of Revisions to the Tennessee State Implementation Plan Regarding Visibility**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the visibility protection chapter for the State of Tennessee submitted to EPA on February 9, 1993, and December 19, 1994, by Tennessee, through the Tennessee Department of Environment and Conservation (TDEC). The intended effect of these revisions is to meet the

requirements of the Clean Air Act (CAA) for the purpose of assuring visibility protection in mandatory Class I Federal areas.

**DATES:** This final rule is effective September 2, 1997 unless adverse or critical comments are received by August 1, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments on this action should be addressed to William Denman at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference files TN104-01-9706 and TN148-01-9705. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460  
Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. William Denman 404/562-9030

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243-1531.

**FOR FURTHER INFORMATION CONTACT:** William Denman at 404/562-9030.

**SUPPLEMENTARY INFORMATION:** On February 9, 1993 (reference file TN104), and December 19, 1994 (reference file TN148) the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), submitted to the EPA for incorporation into their SIP, revisions to Chapter 1200-3-9 "Construction and Operating Permits," a non-regulatory visibility long term strategy, and a new Chapter 1200-3-23 "Visibility Protection." The EPA is taking no action on the revisions to Chapter 1200-3-9 because these revisions were replaced in a subsequent submittal and action was taken by EPA to approve these revisions on July 18, 1996 (61 FR 37387). On May 6, 1997, Tennessee withdrew the nonregulatory portion of the visibility protection plan because Tennessee is revising its visibility long-term strategy to meet the requirements of 40 CFR 51 Subpart P.

The EPA is approving the entire chapter 1200-3-23 "Visibility Protection" into the SIP because it meets the regulatory requirements of 40 CFR 51 Subpart P. Tennessee's visibility protection chapter contains the following provisions for the protection of visibility in Federal Class I areas.

#### *1200-3-23-.01 Purpose*

This section states that the purpose of this chapter is to assure reasonable progress toward meeting the goal of prevention of any future, and remedy of any existing impairment of visibility in mandatory Class I Federal areas in which impairment results from man-made air pollution.

#### *1200-3-23-.02 Definitions*

Definitions of the following terms are included in this section: Best Available Retrofit Technology (BART), existing stationary facility, Federal Class I Area, fixed capital cost, in existence, in operation, mandatory Class I Federal Area, natural conditions, reconstruction, visibility impairment, significant impairment, integral vista, continuous program of physical on-site construction, substantial loss, adverse impact on visibility, pollutant, and reasonably attributable. The definitions are consistent with EPA and CAA requirements.

#### *1200-3-23-.03 General Visibility Protection Standards*

This section states that no person shall cause or allow emissions in excess of the standards in this chapter, and that possession of a valid permit shall not protect the source from enforcement actions if permit conditions are not met. Also, upon mutual agreement of the owner/operator of a source and the Technical Secretary, a more restrictive emissions limitation than specified in this chapter may be established, operating parameters may be established as a binding limit, those limits will be stated as special condition(s) for any permit or order concerning the source, and violation of any accepted special limitation is grounds for revocation of the issued permit.

#### *1200-3-23-.04 Specific Emission Standards for Existing Stationary Facilities*

This section states that for existing stationary sources which cause a visibility impairment in any mandatory Class I Federal Area, the Technical Secretary shall specify on the operating permit(s) as permit conditions the emission limitation that is best available retrofit technology (BART).

#### 1200-3-23-.05 Specific Emission Standards for Existing Sources

This section states that for any existing source that causes visibility impairment in any mandatory Class I Federal Area, the Technical Secretary may specify on the operating permit(s) an emissions limitation that is equivalent to BART. This section also states that existing sources subject to the provision of rule (.04) are not subject to the provisions of this Rule.

#### 1200-3-23-.06 Visibility Standards for New and Modified Sources

This section states that a new "major stationary source" or a "major modification" construction in an attainment area or unclassifiable area must meet Prevention of Significant Deterioration (PSD) requirements, and in a nonattainment area must meet applicable New Source Review (NSR) requirements. In addition, for any new source or modification, the Technical Secretary may require BART.

#### 1200-3-23-.07 Visibility Monitoring Requirements

This section states that the Technical Secretary may require visibility monitoring in the vicinity of a source regulated by this Chapter and that the monitoring shall be done in accordance with the requirements as specified by the Technical Secretary.

#### 1200-3-23-.08 Exemptions from BART Requirements

This section provides exemptions from BART as follows:

1. Any existing stationary facility subject to the BART requirement may apply to the Administrator of the EPA through the Technical Secretary for an exemption.

2. An application under this rule must include all available documentation relevant to the impact of the source's emissions on visibility in any mandatory Class I Federal Area and a demonstration by the existing stationary facility that it does not or will not, by itself or in combination with other sources, emit any air pollutant which may be reasonably anticipated to cause a significant impairment of visibility in any mandatory Class I Federal Area.

3. A fossil-fuel fired power plant with a total generating capacity of 750 megawatts or more may receive an exemption from BART only if the owner/operator demonstrates to the Technical Secretary that it is located at such a distance from all mandatory Class I Federal Areas that it will not emit any air pollutant which may reasonably be anticipated to cause significant impairment of visibility.

4. The existing stationary source must give written notice to all affected Federal Land Managers of any application for exemption.

5. The Federal Land Manager may provide an initial recommendation or comment on the disposition of such application.

6. Within 90 days of receipt of an application for exemption the Technical Secretary will provide notice of receipt and notice of opportunity for public hearing. If the Technical Secretary concurs, the application for exemption will be forwarded to the Administrator of EPA who may grant or deny the exemption. An exemption granted by the Administrator of the EPA will be effective only upon concurrence by all affected Federal Land Managers.

#### Final Action

The EPA is approving the submitted revisions into the Tennessee SIP as described in the **SUPPLEMENTARY INFORMATION** section. 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 2, 1997 unless, by August 1, 1997 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 2, 1997.

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.

#### Administrative Requirements

##### A. Executive Order 12866

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 (OMB) has exempted this regulatory action from E.O. 12866 review.

##### B. Regulatory Flexibility Act

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 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. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

##### C. Unfunded Mandates

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 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 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

**D. Submission to Congress and the General Accounting Office**

Under 5 U.S.C. 801(a)(1)(A) as added 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 the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**E. Petitions for Judicial Review**

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 2, 1997. 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 in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 17, 1997.

**A. Stanley Meiburg,**  
*Acting Regional Administrator.*

Part 52 of chapter I, title 40, 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 RR—Tennessee**

2. Section 52.2220 is amended by adding paragraph (c)(147) to read as follows:

**§ 52.2220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(147) Addition of a new chapter 1200-3-23 "Visibility Protection" to the Tennessee Air Pollution Control Regulations submitted by the Tennessee Department of Environment and Conservation on February 9, 1993, and December 19, 1994.

(i) Incorporation by reference.

(A) Chapter 1200-3-23 "Visibility Protection," effective July 24, 1994.

(ii) Other material. None.

\* \* \* \* \*

[FR Doc. 97-17183 Filed 7-1-97; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-300500; FRL-5719-9]

RIN 2070-AB78

**Tebufenozide; Pesticide Tolerances for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for residues of the insecticide tebufenozide in or on the following raw agricultural commodities: apples; apple pomace; cottonseed, undelinted; cottonseed meal; cottonseed oil; cottonseed hulls, cotton gin byproducts; milk; meat, meat fat, and meat by-products of cattle, sheep, and goats; and horse meat in connection with EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of tebufenozide on apples in Pennsylvania, New Jersey, Virginia, West Virginia, Michigan and New York. This regulation establishes maximum permissible levels for residues of tebufenozide on the above raw agricultural commodities pursuant to section 408(l)(6) of the Federal Food, Drug and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. These tolerances will expire and be revoked on June 30, 1998.

**DATES:** This regulation becomes effective July 2, 1997. Objections and requests for hearings must be received by EPA on or before September 2, 1997.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP-300500], must be submitted to: Hearing Clerk

(1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300500], must be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300500]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Pat Cimino, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202. (703) 308-8328, e-mail: cimino.pat@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for residues of the insecticide tebufenozide (benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide) in or on apples at 1.0 part per million (ppm); apple pomace at 2.0 ppm; cottonseed, undelinted at 0.2 ppm; cottonseed meal at 0.5 ppm; cottonseed oil at 1.3 ppm; cottonseed hulls at 0.8 ppm; cotton gin byproducts at 4.0 ppm; milk at 0.05