

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[VA084/101-5045a; FRL-6726-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revised Format for Materials Being Incorporated by Reference; Approval of Recodification of the Virginia Administrative Code; Correction

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

**ACTION:** Direct final rule; correcting amendments.

**SUMMARY:** This document corrects errors in the rule language of a final rule pertaining to EPA's approval of a recodification of and associated administrative revisions to Virginia's air pollution control regulations. This recodification reorganized and renumbered the Virginia SIP to match the numbering system set forth in the Virginia Administrative Code. In this same action, we also revised the format of 40 CFR part 52 for materials submitted by Virginia that are incorporated by reference (IBR) into the Virginia State implementation plan (SIPs).

**EFFECTIVE DATE:** July 6, 2000.

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford (215) 814-2108 or by e-mail at frankford.harold@pa.gov.

#### **SUPPLEMENTARY INFORMATION:**

Throughout this document, wherever "we" or "our" are used, we mean EPA. On April 21, 2000 (65 FR 21315), we published a final rulemaking action announcing our approval of the revised reorganization of the Virginia Administrative Code (VAC), including reorganization of the air pollution control regulations. The intent of the rule was to approve the revised regulatory structure of Virginia's air pollution control regulations, and to list, in chart form, those Virginia regulatory provisions which had been incorporated by reference into the Virginia SIP.

In this document, we discovered incorrect information and omissions related to entries appearing in the summary rulemaking charts published on pages 21322, 21342, and 21346. In one case, we did not clearly delineate the provisions in Virginia's compliance testing requirements (9 VAC 5-40-20) which we had historically approved, and thus incorporated by reference, as part of the Virginia SIP. In the other case, we omitted the listing of eight other Virginia air pollution control rules (either in the 9 VAC 5 or "VR" format)

which EPA had incorporated by reference in past rulemaking actions into the SIP. In this action, we are publishing those entries in 40 CFR 52.2420(c) which contained incorrect information or were inadvertently omitted from the document.

At the same time, we had intended to revise the citation of Virginia's compliance testing provision which we had historically disapproved and codified at 40 CFR 52.2423(f) so that it reflects the current 9 VAC 5 citation. This action revises § 52.2423(f) to reflect the correct citation. Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

#### **Administrative Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not

subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of July 6, 2000. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. The corrections to 40 CFR 52.2420(c) and 52.2423(f) for Virginia are not "major rules" as defined by 5 U.S.C. 804(2).

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

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by

reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 19, 2000.

**Bradley M. Campbell,**

*Regional Administrator, EPA Region III.*

40 CFR part 52 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 *et seq.*

**Subpart VV—Virginia**

2. In § 52.2420, the table in paragraph (c) is amended by:

a. Revising entry “5–40–20” under Chapter 40, Part I.

b. Adding in numerical order entry “5–91–40” under Chapter 91, Part II.

c. Removing entry “5–480–20” and adding new entries in its place under 2 VAC 5, Chapter 480.

The revisions and additions read as follows:

**§ 52.2420 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP**

State Citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
* * *	* * *	* * *	* * *	* * *
<b>Chapter 40 Existing Stationary Sources [Part IV]</b>				
<b>Part I Special Provisions</b>				
5–40–20 (Except A.3)	Compliance	4/17/95	4/21/00 65 FR 21315	120–04–02 (Except A.3).
* * *	* * *	* * *	* * *	* * *
<b>Chapter 91 Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area</b>				
<b>Part II General Provisions</b>				
5–91–40	Establishment of Regulations and Orders	1/24/97	9/1/99 64 FR 47670	
* * *	* * *	* * *	* * *	* * *
<b>2 VAC 5 CHAPTER 480 Regulation Governing the Oxygenation of Gasoline</b>				
VR115–04–28, § 1	Definitions	11/1/93	4/15/94 39 FR 17942	SIP Effective Date: 4/3/00.
5–480–20	Applicability	11/1/96	2/17/00 65 FR 8051	
VR115–04–28, § 3	Minimum oxygenate content	11/1/93	4/15/94 39 FR 17942	
VR115–04–28, § 4	Nature of oxygenates	11/1/93	4/15/94 39 FR 17942	
VR115–04–28, § 5	Record keeping and transfer requirements	11/1/93	4/15/94 39 FR 17942	
VR115–04–28, § 6	Gasoline pump labeling	11/1/93	4/15/94 39 FR 17942	
VR115–04–28, § 7	Sampling, testing and oxygen content calculations	11/1/93	4/15/94 39 FR 17942	
VR115–04–28, § 8	Compliance and enforcement	11/1/93	4/15/94 39 FR 17942	

**§ 52.2423 [Amended]**

3. In § 52.2423(f), the citation "Section 120-04-02.A.3." is revised to read "Section 9 VAC 5-40-20.A.3."

[FR Doc. 00-16366 Filed 7-5-00; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63**

[AD-FRL-6730-6]

RIN 2060-AE86

**National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production; Synthetic Organic Chemical Manufacturing Industry; Epoxy Resins Production and Non-Nylon Polyamides Production; and Petroleum Refineries**

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

**ACTION:** Withdrawal of amendment in direct final rule.

**SUMMARY:** Due to an adverse comment, the EPA is withdrawing an amendment from the May 8, 2000 direct final rule for National Emission Standards for Hazardous Air Pollutants (NESHAP) for Polyether Polyols Production; Synthetic Organic Chemical Manufacturing Industry; Epoxy Resins Production and Non-Nylon Polyamides Production; and Petroleum Refineries. The amendment being withdrawn deals with the definition of equipment leak in the Petroleum Refineries NESHAP. The withdrawal of the amendment from the direct final rule will only affect sources subject to the Petroleum Refineries NESHAP.

**DATES:** Amendment 6 in the direct final rule, which amends § 63.641, published on May 8, 2000 (65 FR 26491), is withdrawn as of July 6, 2000. The remaining amendments will be effective July 7, 2000, as stated in the May 8 rule.

**ADDRESSES:** Docket numbers A-90-20 (Hazardous Organic NESHAP); A-92-37 (Epoxy Resins Production and Non-Nylon Polyamides Production); A-93-48 (Petroleum Refineries); and A-96-38 (Polyether Polyols Production) contain supporting information used in developing the standards. The dockets are located at the U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, in room M-1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert E. Rosensteel at (919) 541-5608, Emission Standards Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, electronic mail address "rosensteel.bob@epa.gov".

**SUPPLEMENTARY INFORMATION:** On May 8, 2000, the EPA published a direct final rule (65 FR 26491) and a parallel proposal (65 FR 26544) to amend portions of the NESHAP for Polyether Polyols Production; Synthetic Organic Chemical Manufacturing Industry; Epoxy Resins Production and Non-Nylon Polyamides Production; and Petroleum Refineries. The EPA stated in the direct final rule that if relevant, adverse comments were received by June 7, 2000, the EPA would publish a document to withdraw the affected portions of the direct final rule before its effective date of July 7, 2000. The EPA received an adverse comment on Amendment 6 in the direct final rule and, therefore, is withdrawing Amendment 6. This withdrawal of Amendment 6 only affects sources subject to the Petroleum Refineries NESHAP (40 CFR part 63, subpart CC). Amendment 6 would have changed the definition of equipment leak to add the term "connectors" to the equipment leak provisions in the NESHAP.

The adverse comment stated that the EPA's rationale for adding connectors to the list of equipment in the definition of equipment leak was not supported by the record of the rulemaking for the Petroleum Refineries NESHAP. It indicated that meetings with, and correspondence from, EPA and Congress supported flexibility and the New Source Performance Standard (NSPS) option without connectors. Therefore, the EPA is withdrawing this amendment and will decide the appropriate response to this comment. The 19 amendments for which we did not receive adverse comments will become effective on July 7, 2000, as provided in the May 8, 2000 direct final rule (65 FR 26491).

Dated: June 30, 2000.

**Robert Brenner,**

*Acting, Assistant Administrator for Air and Radiation.*

[FR Doc. 00-17068 Filed 7-5-00; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[OPP-301008; FRL-6590-1]

RIN 2070-AB78

**Tebufenozide; Pesticide Tolerances for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for residues of tebufenozide (benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide) in or on grapes. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on grapes. This regulation establishes a maximum permissible level for residues of tebufenozide in this food commodity. The tolerance will expire and is revoked on December 31, 2001.

**DATES:** This regulation is effective July 6, 2000. Objections and requests for hearings, identified by docket control number OPP-301008, must be received by EPA on or before September 5, 2000.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301008 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number, 703-305-6463; e-mail address: madden.barbara@epa.gov.

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to: