

■ 2. Section 165.T05–091 is reinstated and revised to read as follows:

**§ 165.T05–091 Security Zone; Oyster Creek Generation Station, Forked River, Ocean County, New Jersey.**

(a) *Location.* The following area is a security zone: starting at the south branch of the Forked River in the vicinity of the Oyster Creek Generation Station, bounded by a line beginning at 39°49'12.0" N, 074°12'13.0" W; thence to 39°48'39.7" N, 074°12'0" W; along the shoreline, thence to 39°48'40.0" N, 074°12'0.3" W; thence to 39°49'11.8" N, 074°12'10.5" W; thence back along the shoreline to the beginning point. All coordinates reference Datum: NAD 1983.

(b) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones in § 165.33 of this part.

(2) No person or vessel may enter or navigate within this security zone unless authorized to do so by the Coast Guard or designated representative. Any person or vessel authorized to enter the security zone must operate in strict conformance with any directions given by the Coast Guard or designated representative and leave the security zone immediately if the Coast Guard or designated representative so orders.

(3) The Coast Guard or designated representative enforcing this section can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at (215) 271–4807.

(4) The Captain of the Port will notify the public of any changes in the status of this security zone by Marine Safety Radio Broadcast on VHF–FM marine band radio, channel 22 (157.1 MHz).

(c) *Definitions.* For the purposes of this temporary section, *Captain of the Port* means the Commanding Officer of the Coast Guard Marine Safety Office/ Group Philadelphia or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act as a designated representative on his behalf.

(d) *Effective period.* This section is effective from 5 p.m. (EDT) on May 13, 2003, through March 4, 2004.

Dated: January 16, 2004.

**Jonathan D. Sarubbi,**

*Captain, U.S. Coast Guard, Captain of the Port Philadelphia.*

[FR Doc. 04–2309 Filed 2–3–04; 8:45 am]

**BILLING CODE 4910–15–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CT–057–7216g; A–1–FRL–7617–8]

**Approval and Promulgation of Implementation Plans; Connecticut; Motor Vehicle Emissions Budgets for 2005 and 2007 using MOBILE6.2 for the Connecticut Portion of the New York-Northern New Jersey-Long Island Nonattainment Area and for 2007 for the Greater Connecticut Nonattainment Area**

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving a revision to the Connecticut State Implementation Plan (SIP) for the attainment and maintenance of the one-hour National Ambient Air Quality Standard (NAAQS) for ground level ozone submitted by the State of Connecticut. The intended effect of this action is to approve Connecticut's 2005 and 2007 motor vehicle emissions budgets recalculated using MOBILE6.2 for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and to approve Connecticut's 2007 motor vehicle emissions budgets for the Greater Connecticut nonattainment area also recalculated using MOBILE6.2. This action is being taken under the Clean Air Act.

**EFFECTIVE DATE:** This rule is effective on February 4, 2004.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA 02114–2023; and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

**FOR FURTHER INFORMATION CONTACT:** Donald O. Cooke, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114–2023, (617) 918–1668, [cooke.donald@epa.gov](mailto:cooke.donald@epa.gov).

**SUPPLEMENTARY INFORMATION:**

The following table of contents describes the format for the **SUPPLEMENTARY INFORMATION** section:

I. What Action Is EPA Taking Today?

II. What Comments Did EPA Receive in Response to Its Proposal?

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B. Comments Received and EPA's Response

III. What Is EPA's Conclusion?

IV. Statutory and Executive Order Reviews

**I. What Action Is EPA Taking Today?**

On June 17, 2003, the Connecticut Department of Environmental Protection (CTDEP) submitted an amendment to the Connecticut State Implementation Plan (SIP) containing 2005 and 2007 motor vehicle emissions budgets recalculated using the MOBILE6.2 model for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and 2007 motor vehicle emissions budgets for the Greater Connecticut nonattainment area. This SIP revision fulfills the commitment made by the CTDEP in its February 8, 2000 SIP submittal to revise the transportation conformity budgets using EPA's MOBILE6 emissions model.<sup>1</sup> In addition, this SIP revision demonstrates that the new levels of motor vehicle emissions calculated using MOBILE6.2 continue to support achievement of the rate of progress requirements and projected attainment of the one-hour ozone NAAQS for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and the Greater Connecticut nonattainment area. Connecticut held a public hearing on its proposed SIP revision on May 27, 2003. Today's action approves these budgets.

The specific 2005 and 2007 motor vehicle emission budgets that EPA is approving in today's rulemaking are identified below in Table 1. The rationale for EPA's action are explained in the notice of direct final rulemaking (68 FR 70484) published in the **Federal Register** on December 18, 2003, and will not be restated here.

**II. What Comments Did EPA Receive in Response to Its Proposal?**

*A. Background Information*

On December 18, 2003, the EPA announced in proposed and direct final rules published in the **Federal Register** (68 FR 70437 and 68 FR 70484, respectively) approval of Connecticut's SIP revision for its 2005 and 2007 motor vehicle emissions budgets using MOBILE6.2 for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and 2007 budgets for the Greater

<sup>1</sup> Document titled "Addenda to the Ozone Attainment Demonstrations for the Southwest Connecticut Severe Ozone Nonattainment Area and Greater Connecticut Serious Ozone Nonattainment Area," February 8, 2000.

Connecticut nonattainment area, which are the subject of today's final rulemaking.

On December 20, 2003, EPA received an electronic comment on the direct final rule. EPA had indicated in its December 18, 2003 direct final rule that if EPA received adverse comments, it would withdraw the direct final rule. Consequently, elsewhere in today's **Federal Register**, EPA is publishing a separate withdrawal document to inform the public that EPA received an adverse comment and that the direct final rule will not take effect. EPA did not receive any other comments. EPA is addressing the adverse comment in today's final rule based upon the proposed action published on December 18, 2003.

*B. Comments Received and EPA's Response*

The sole comment EPA received on our action is as follows:

“[C]onnecticut Motor Vehicle Emissions

[T]hese emissions pollute the air for New Jersey as well, so standards must be set exceptionally high. NJ already has air pollution of immense degradation. We must set higher standards so that

our air is cleaned. Standards should be set higher than those proposed. People in this area are being injured and killed by the air pollution we presently have.”

The State of Connecticut previously established the appropriate levels of volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) emission necessary from stationary sources, area sources and mobile sources (mobile sources includes emissions from on-road/highway motor vehicles) to attain the one-hour National Ambient Air Quality Standard for Ozone. These levels were documented and supported in detail in Connecticut's Ozone Attainment Demonstrations which EPA approved on January 3, 2001 (Greater Connecticut serious ozone nonattainment area, 66 FR 634) and December 11, 2001 (Connecticut portion of the New York-Northern New Jersey-Long Island severe ozone nonattainment area, 66 FR 63921). EPA's current action to approve Connecticut's revised 2005 and 2007 motor vehicle emission budgets was limited to approval of a change in the modeling of these previously established motor vehicle emission budgets, and EPA concluded that even with the new MOBILE6 emission levels, the two areas would

still attain in a timely fashion. Issues related to the appropriate level of the National Ambient Air Quality Standards (NAAQSs) to protect human health and the environment, or to the emission levels selected by Connecticut to attain the one-hour ozone NAAQS are beyond the scope of this rulemaking.

**III. What Is EPA's Conclusion?**

EPA is approving Connecticut's revision submitted on June 17, 2003 containing 2005 and 2007 motor vehicle emissions budgets using MOBILE6.2 for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and 2007 budgets for the Greater Connecticut nonattainment area.

Table 1 contains Connecticut's revised budgets that EPA is approving today. These budgets were developed using the latest planning assumptions, including 2000 vehicle registration data, VMT, speeds, fleet mix, and SIP control measures. For the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area, EPA is approving budgets for 2005 and 2007, and for the Greater Connecticut nonattainment area EPA is approving budgets for 2007.

TABLE 1.—MOBILE6.2 TRANSPORTATION CONFORMITY BUDGETS

Year	Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area		Greater Connecticut	
	VOC (tons/day)	NO <sub>x</sub> (tons/day)	VOC (tons/day)	NO <sub>x</sub> (tons/day)
2005 .....	19.5	36.8	NA	NA
2007 .....	16.4	29.7	51.9	98.4

EPA has determined that today's rule falls under the “good cause” exemption in section 553(d)(3) of the Administrative Procedures Act (APA) which, upon finding “good cause,” allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). EPA has concluded that it is not necessary to delay the effectiveness of this rule for 30 days because the entities that will be directly affected by these new budgets have had ample notice of our action and wish to use the new budgets as soon as possible. The state and Federal Departments of Transportation (DOTs) use these budgets to determine whether their transportation improvement programs conform with the planning assumptions in the state's implementation plan. The DOTs will be most immediately affected

by EPA's approval of these new budgets and their transportation planning obligations are directly impacted by changes in these budgets. EPA and the Connecticut DEP have been consulting extensively with the DOTs about these budget changes. The DOTs are not only ready to use these new budgets without waiting 30 days, they are eager to use them as soon as possible to avoid delays in the transportation planning process. Therefore, since the entities that are most directly impacted by this approval are ready to use the new budgets and prefer to use them immediately, EPA is making this rule effective immediately. This rule will be effective February 4, 2004.

**IV. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and

therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small

governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 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. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

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 5, 2004. 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, Intergovernmental relations, Oxides of Nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: January 28, 2004.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*

■ Part 52 of 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 *et seq.*

#### Subpart H—Connecticut

■ 2. Section 52.377 is amended by revising paragraphs (b), (c) and (d) to read as follows:

##### § 52.377 Control strategy: Ozone.

\* \* \* \* \*

(b) Approval—Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on September 16, 1998, February 8, 2000 and June 17, 2003. The revisions are for the purpose of satisfying the attainment demonstration requirements of section 182(c)(2)(A) of the Clean Air Act for the Greater Connecticut serious ozone nonattainment area. The revision establishes an attainment date of November 15, 2007 for the Greater Connecticut serious ozone nonattainment area. Connecticut

commits to conduct a mid-course review to assess modeling and monitoring progress achieved toward the goal of attainment by 2007, and submit the results to EPA by December 31, 2004. The June 17, 2003 revision establishes MOBILE6-based motor vehicle emissions budgets for 2007 of 51.9 tons per day of volatile organic compounds (VOC) and 98.4 tons per day of nitrogen oxides (NO<sub>x</sub>) to be used in transportation conformity in the Greater Connecticut serious ozone nonattainment area.

(c) Approval—Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on October 15, 2001 and June 17, 2003. These revisions are for the purpose of satisfying the rate of progress requirement of section 182(c)(2)(B) through 2007, and the contingency measure requirements of section 182(c)(9) of the Clean Air Act, for the Connecticut portion of the NY-NJ-CT severe ozone nonattainment area. The October 15, 2001 revision establishes motor vehicle emissions budgets for 2002 of 15.20 tons per day of VOC and 38.39 tons per day of NO<sub>x</sub> to be used in transportation conformity in the Connecticut portion of the NY-NJ-CT severe ozone nonattainment area. The June 17, 2003 revision establishes motor vehicle emissions budgets for 2005 of 19.5 tons per day of VOC and 36.8 tons per day of NO<sub>x</sub> to be used in transportation conformity in the Connecticut portion of the NY-NJ-CT severe ozone nonattainment area.

(d) Approval—Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on September 16, 1998, February 8, 2000, October 15, 2001 and June 17, 2003. The revisions are for the purpose of satisfying the attainment demonstration requirements of section 182(c)(2)(A) of the Clean Air Act for the Connecticut portion of the NY-NJ-CT severe ozone nonattainment area. The June 17, 2003 revision establishes MOBILE6-based motor vehicle emissions budgets for 2007 of 16.4 tons per day of VOC and 29.7 tons per day of NO<sub>x</sub> to be used in transportation conformity in the Connecticut portion of the NY-NJ-CT severe ozone nonattainment area. Connecticut commits to adopt and submit by October 31, 2001, additional necessary regional control measures to offset the emission reduction shortfall in order to attain the one-hour ozone standard by November 2007. Connecticut commits to adopt and submit by October 31, 2001, additional necessary intrastate control measures to

offset the emission reduction shortfall in order to attain the one-hour ozone standard by November 2007. Connecticut commits to adopt and submit additional restrictions on VOC emissions from mobile equipment and repair operations; and requirements to reduce VOC emissions from certain consumer products. Connecticut also commits to conduct a mid-course review to assess modeling and monitoring progress achieved toward the goal of attainment by 2007, and submit the results to EPA by December 31, 2004.

[FR Doc. 04-2267 Filed 2-3-04; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CT-057-7216f; FRL-7618-1]

#### Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Withdrawal of Direct Final Rule

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

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

**SUMMARY:** Due to an adverse comment, EPA is withdrawing the direct final rule to approve Connecticut's 2005 and 2007 motor vehicle emissions budgets recalculated using MOBILE6.2 for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and to approve Connecticut's 2007 motor vehicle emissions budgets for the Greater Connecticut nonattainment area also recalculated using MOBILE6.2. In the direct final rule published on December 18, 2003 (68 FR 70437), we stated that if we received adverse comment by January 20, 2004, the rule would be withdrawn and not take effect. EPA subsequently received an adverse comment. EPA will address the comment received in a subsequent final action based upon the proposed action also published on December 18, 2003 (68 FR 70484). EPA will not institute a second comment period on this action.

**EFFECTIVE DATE:** The Direct final rule is withdrawn as of February 4, 2004.

**FOR FURTHER INFORMATION CONTACT:** Donald O. Cooke, Environmental Scientist, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, (617) 918-1668, [cooke.donald@epa.gov](mailto:cooke.donald@epa.gov).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Oxides of Nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: January 26, 2004.

**Robert W. Varney,**  
Regional Administrator, EPA New England.

■ Accordingly, the revisions of 40 CFR 52.377(b), (c) and (d) (which published in the **Federal Register** on December 18, 2003 at 68 FR 70437) are withdrawn as of February 4, 2004.

[FR Doc. 04-2266 Filed 2-3-04; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2003-0370; FRL-7335-6]

#### Bifentazate; Pesticide Tolerances for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for combined residues of bifentazate (1-methylethyl 2-(4-methoxy[1,1'-biphenyl]-3-yl)hydrazinecarboxylate) and diazinecarboxylic acid, 2-(4-methoxy[1,1'-biphenyl]-3-yl), 1-methylethyl ester (expressed as bifentazate) in or on potatoes. This action is in response to use of this chemical on potatoes under an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This regulation establishes a maximum permissible level for residues of bifentazate in this food commodity. The tolerance will expire and is revoked on December 31, 2006.

**DATES:** This regulation is effective February 4, 2004. Objections and requests for hearings, identified by docket ID number OPP-2003-0370, must be received on or before April 5, 2004.

**ADDRESSES:** Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200

Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9367; e-mail address: [Sec-18-Mailbox@epa.gov](mailto:Sec-18-Mailbox@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 entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0370. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at <http://>