

qualified expenditures subject to the revoked section 59(e) election as of the first day of the taxable year the revocation is effective is deductible in the year the revocation is effective (subject to the requirements of any other provision under the Code, regulations, or any other published guidance) and the taxpayer will be required to amend any federal income tax returns affected by the revocation.

(d) *Effective date.* These regulations apply to a section 59(e) election made for a taxable year ending, or a request to revoke a section 59(e) election submitted, on or after December 22, 2004.

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

■ **Par. 3.** The authority citation for part 602 continues to read as follows:

*Authority:* 26 U.S.C. 7805.

■ **Par. 4.** In § 602.101, paragraph (b) is amended by adding an entry in numerical order to the table to read as follows:

**§ 602.101 OMB Control numbers.**

CFR part or section where identified and described	Current OMB control No.
* * * *	
(b) * * *	
* * * *	
1.59-1 .....	1545-1903
* * * *	

Approved: December 15, 2004.

**Mark E. Matthews,**  
*Deputy Commissioner for Services and Enforcement.*

**Gregory F. Jenner,**  
*Acting Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 04-27917 Filed 12-21-04; 8:45 am]

**BILLING CODE 4830-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[FRL-7852-2]

**Availability of Federally-Enforceable State Implementation Plans for All States**

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

**ACTION:** Notice of availability.

**SUMMARY:** Section 110(h) of the Clean Air Act, as amended in 1990 (the “Act”), requires EPA by November 15, 1995, and every three years thereafter, to assemble the requirements of the Federally-enforceable State Implementation Plans (SIPs) in each State and to publish notice in the **Federal Register** of the availability of such documents. This notice of availability fulfills the three-year requirement of making these SIP compilations for each State available to the public.

**EFFECTIVE DATE:** December 22, 2004.

**ADDRESSES:** You may contact the appropriate EPA Regional Office regarding requirements of applicable implementation plans for each State in that region. The list below identifies the appropriate regional office for each state. The SIP compilations are available for public inspection during normal business hours at the appropriate EPA Regional Office. If you want to view these documents, you should make an appointment with the appropriate EPA office and arrange to review the SIP at a mutually agreeable time.

*Region 1:* Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

*Regional Contact:* Donald Cooke (617/918-1668), EPA, Office of Ecosystem Protection (CAQ), Suite 1100, One Congress Street, Boston, MA 02114-2023.

*See also:* <http://www.epa.gov/region1/topics/air/sips.html>.

*Region 2:* New Jersey, New York, Puerto Rico, and Virgin Islands.

*Regional Contact:* Paul Truchan (212/637-3711), EPA, Air Programs Branch, 290 Broadway, New York, NY 10007-1866.

*See also:* <http://www.epa.gov/region02/air/sip/>.

*Region 3:* Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

*Regional Contact:* Harold A. Frankford (215/814-2108), EPA, Office of Air Programs (3AP20), Air Protection Division, 1650 Arch Street, Philadelphia, PA 19103.

*See also:* <http://yosemite.epa.gov/r3/r3sips.nsf/MidAtlanticSIPs?openform>.

*Region 4:* Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

*Regional Contact:* Sean Lakeman (404/562-9043), EPA, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, GA 30303.

*See also:* <http://www.epa.gov/region4/air/sips/>.

*Region 5:* Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

*Regional Contacts:* Jeremiah Hall (312/353-3503), EPA, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, IL 60604-3507.

*See also:* <http://www.epa.gov/ARD-R5/sips/sips.htm>.

*Region 6:* Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

*Regional Contact:* Bill Deese (214/665-7253), EPA, Multimedia Planning and Permitting Division, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, TX 75202-2733.

*See also:* <http://www.epa.gov/earth1r6/6pd/air/sip/sip.htm>.

*Region 7:* Iowa, Kansas, Missouri, and Nebraska.

*Regional Contact:* Evelyn VanGoethem (913-551-7659), EPA, Air, RCRA and Toxics Division, Air Planning and Development Branch, 901 N. 5th Street, Kansas City, KS 66101.

*See also:* <http://www.epa.gov/region07/programs/artd/air/rules/fedapprv.htm>.

*Region 8:* Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

*Regional Contact:* Laurie Ostrand (303/312-6437), EPA, Air and Radiation Program, Office of Partnership and Regulatory Assistance, 999 18th Street, Suite 300, Denver, CO 80202-2466.

*See also:* <http://www.epa.gov/region8/air/sip.html>.

*Region 9:* Arizona, California, Hawaii, Nevada, American Samoa, and Guam.

*Regional Contact:* Julie Rose (415/947-4126), and Cynthia Allen (415/947-4120), EPA, Air Division, Rulemaking Office, AIR-4, 75 Hawthorne Street, San Francisco, CA 94105.

*See also:* <http://www.epa.gov/region9/air/sips/>.

*Region 10:* Alaska, Idaho, Oregon, and Washington.

*Regional Contacts:* Donna Deneen (206/553-6706) and Debra Suzuki (206) 553-0985), EPA, Office of Air Quality (OAQ 107), 1200 6th Avenue, Seattle, WA 98101.

*See also:* <http://www.epa.gov/r10earth/sips.htm>.

**FOR FURTHER INFORMATION CONTACT:** Donald Cooke, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1668, fax number (617) 918-0668, e-mail [cooke.donald@epa.gov](mailto:cooke.donald@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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### Availability of SIP Compilations

This notice identifies the appropriate EPA Regional Offices to which you may address questions of SIP availability and SIP requirements. In response to the 110(h) requirement following the 1990 Clean Air Act Amendments, the first notice of availability was published in the **Federal Register** on November 1, 1995 at 60 FR 55459. The second notice of availability was published in the **Federal Register** on November 18, 1998 at 63 FR 63986. The third notice of availability was published in the **Federal Register** on November 20, 2001 at 66 FR 58070. This is the fourth notice of availability of the compilations of Federally-enforceable state implementation plans for each state.

In addition, information on the content of EPA-approved SIPs is available on the Internet through the EPA Regional Web sites. Regional Web site addresses for Regional information are provided in the regional contacts list above.

### What Is the Basis for This Document

Section 110(h)(1) of the Clean Air Act mandates that not later than 5 years after the date of enactment of the Clean Air Act Amendments of 1990, and every three years thereafter, the Administrator shall assemble and publish a comprehensive document for each State setting forth all requirements of the applicable implementation plan for such State and shall publish notice in the **Federal Register** of the availability of such documents.

Section 110(h) recognizes the fluidity of a given State SIP. The SIP is a living document which can be revised by the State with EPA approval as necessary to address the unique air pollution problems in the State. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations. On May 31, 1972 (37 FR 10842), EPA approved, with certain exceptions, the initial SIPs for 50 states, four territories and the District of Columbia. [Note: EPA approved an additional SIP— for the Northern Mariana Islands —on November 10, 1986 (51 FR 40799)]. Since 1972, each State and territory has submitted numerous SIP revisions, either on their own initiative, or because they were required to as a result of various amendments to the Clean Air Act. This notice of availability informs the public

that the SIP compilation has been updated to include the most recent requirements approved into the SIP. These approved requirements are Federally-enforceable.

### What Is Being Made Available Under This Document

The federally-enforceable SIP is indeed a complex document, containing both many regulatory requirements and non-regulatory items such as plans and inventories. Regulatory requirements include State-adopted rules and regulations, source-specific requirements reflected in consent orders, and in some cases, provisions in the enabling statutes. Following the 1990 Clean Air Act Amendments, the first section 110(h) SIP compilation availability notice was published on November 1, 1995 (61 FR 55459). At that time EPA announced that the SIP compilations, comprised of the regulatory portion of each State SIP, were available at the EPA Regional Office serving that particular State. In general, the compilations made available in 1995 did not include the source-specific requirements or other documents and materials associated with the SIP. With the second notice of availability in 1998, the source-specific requirements and the “non-regulatory” documents [e.g., attainment plans, rate of progress plans, emission inventories, transportation control measures, statutes demonstrating legal authority, monitoring networks, etc.] were made available and will remain available for public inspection at the respective regional office listed in the **ADDRESSES** section above. If you want to view these documents, please make an appointment with the appropriate EPA Regional Office and arrange for a mutually agreeable time.

### What Are the Documents and Materials Associated With the SIP

EPA-approved non-regulatory control measures, include control strategies (such as transportation control measures, local ordinances, state statutes, and emission inventories, or may include regulations provided on other sections of the State-specific subpart of part 52), which have been submitted for inclusion in the SIP by the state. These control measures must have gone through state rulemaking process and the public was given an opportunity to participate in the rulemaking. EPA also took rulemaking action on these control measures and those which have been EPA-approved or conditionally approved are listed along with any limitations on their approval, if any. Examples of EPA-approved documents

and materials associated with the SIP include, but are not limited to, the following subject matter: SIP Narratives; PM<sub>10</sub> Plans; CO Plans; Ozone Plans; Maintenance plans; Inspection and Maintenance (I/M) SIP's; Emissions Inventories; Monitoring Networks; State Statutes submitted for the purposes of demonstrating legal authority; Part D plans; Attainment demonstrations; Transportation control measures (TCM's); Committal measures; Contingency Measures; Non-regulatory & Non-TCM Control Measures; 15% Rate of Progress Plans; Emergency episode plans; Visibility plans. As stated above the “non-regulatory” documents are available for public inspection at the appropriate EPA Regional Office.

### Background

#### *Relationship of National Ambient Air Quality Standards (NAAQS) to SIPs*

EPA has established National ambient air quality standards (NAAQS) for six criteria pollutants, which are widespread common pollutants known to be harmful to human health and welfare. The present criteria pollutants are: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur oxides. See 40 CFR part 50 for a technical description of how the levels of these standards are measured and attained. State Implementation Plans provide for implementation, maintenance, and enforcement of the NAAQS in each state. Areas within each state that are designated nonattainment are subject to additional planning and control requirements. Accordingly, different regulations or programs in the SIP will apply to different areas. EPA lists the designation of each area at 40 CFR part 81.

### What Is a State Implementation Plan

The State Implementation Plan (SIP) is a plan for each State which identifies how that State will attain and/or maintain the primary and secondary National Ambient Air Quality Standards (NAAQS) set forth in section 109 of the Clean Air Act and 40 Code of Federal Regulations 50.4 through 50.12 and which includes federally-enforceable requirements. Each State is required to have a SIP which contains control measures and strategies which demonstrate how each area will attain and maintain the NAAQS. These plans are developed through a public process, formally adopted by the State, and submitted by the Governor's designee to EPA. The Clean Air Act requires EPA to review each plan and any plan revisions and to approve the plan or plan

revisions if consistent with the Clean Air Act.

SIP requirements applicable to all areas are provided in section 110. Part D of title I the Clean Air Act specifies additional requirements applicable to nonattainment areas. Section 110 and part D describe the elements of a SIP and include, among other things, emission inventories, a monitoring network, an air quality analysis, modeling, attainment demonstrations, enforcement mechanisms, and regulations which have been adopted by the State to attain or maintain NAAQS. EPA has adopted regulatory requirements which spell out the procedures for preparing, adopting and submitting SIP's and SIP revisions; that are codified in 40 CFR part 51.

EPA's action on each State's SIP is promulgated in 40 CFR part 52. The first section in the subpart in 40 CFR part 52 for each State is generally the "Identification of plan" section which provides chronological development of the State SIP. Or if the state has undergone the new Incorporation by Reference format process (see 62 FR 27968, May 22, 1997), the identification of plan section identifies the State-submitted rules and plan elements which have been Federally approved. The goal of the State-by-State SIP compilation is to identify those rules under the "Identification of plan" section which are currently Federally-enforceable. In addition, some of the SIP compilations may include control strategies, such as transportation control measures, local ordinances, State statutes, and emission inventories, or may include regulations provided in other sections of the State-specific subpart of part 52. Some of the SIP compilations may not identify these other Federally-enforceable elements.

The contents of a typical SIP fall into three categories: (1) State-adopted control measures which consists of either rules/regulations or source-specific requirements (e.g., orders and consent decrees); (2) State-submitted "non-regulatory" components (e.g., attainment plans, rate of progress plans, emission inventories, transportation control measures, statutes demonstrating legal authority, monitoring networks, etc.); (3) additional requirements promulgated by EPA (in the absence of a commensurate State provision) to satisfy a mandatory section 110 or part D (Clean Air Act) requirement.

#### What Is Federally-Enforceable

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily

a state responsibility. However, after the regulation is Federally approved, EPA is authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the Clean Air Act.

You should note that, when States have submitted their most current State regulations for inclusion into Federally-enforceable SIPs, EPA will begin its review process of submittals as soon as possible. Until EPA approves a submittal by rulemaking action, State-submitted regulations will be State-enforceable only; therefore, State-enforceable SIPs may exist which differ from Federally-enforceable SIPs. As EPA approves these State-submitted regulations, the regional offices will continue to update the SIP compilations to include these applicable requirements.

Dated: December 16, 2004.

**Michael O. Leavitt,**  
Administrator.

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2004-0175; FRL-7682-6]

#### ***Bacillus pumilus* GB34; Exemption from the Requirement of a Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of the microbial pesticide *Bacillus pumilus* GB34 when used as a seed treatment in or on all food commodities. An exemption is also granted for such residues on treated but unplanted soybean seeds. Gustafson LLC submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), to amend and expand an existing exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus pumilus* GB34.

**DATES:** This regulation is effective December 22, 2004. Objections and requests for hearings must be received on or before February 22, 2005.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in

Unit VIII. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under Docket identification (ID) number OPP-2004-0175. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., 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.

**FOR FURTHER INFORMATION CONTACT:** Anne Ball, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8717; e-mail address: [ball.anne@epa.gov](mailto:ball.anne@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:

- Industry (NAICS 111), e.g. crop production, vegetable and fruit farming
- Industry (NAICS 112), e.g. animal production
- Industry (NAICS 311), e.g. food manufacturing
- Industry (NAICS 32532), e.g. pesticide and other agricultural chemical manufacturing

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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in the NAICS listings which are published by the U. S. Census Bureau. If you have