

applicant. The GCDDO will invoke this discretion sparingly.

f. If a dispute is filed, the GCDDO must consult with the Program Office, OGC/ORC, and the GCA, and then determine whether it is in the Agency's best interest to delay the award process pending resolution of the dispute, particularly for disputes involving threshold eligibility issues.

g. Unsuccessful applicants must be provided with reasonable access to Agency records relevant to the dispute in a manner consistent with the standards contained in the Freedom of Information Act. EPA will not disclose materials exempt from disclosure under the Freedom of Information Act.

h. Upon receiving a dispute, the GCDDO will establish a process and schedule for resolving the dispute and communicate this to the applicant and affected Program Office. At his or her discretion, the GCDDO may (i) request additional information from the applicant or Program Office and/or (ii) meet by phone or in person with the unsuccessful applicant and/or Program Office.

i. After reviewing all of the information relevant to the dispute, the GCDDO, after consultation with the GCA, and with the concurrence of the OGC/ORC, will timely issue a final written decision regarding the dispute. The GCDDO's decision will constitute final agency action and is not subject to further review within the Agency.

[FR Doc. 05-1371 Filed 1-25-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R04-OAR-2004-SC-0002/0003-200421(a); FRL-7863-5]

### Approval and Promulgation of Implementation Plans South Carolina: Definitions and General Requirements

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving revisions to the State Implementation Plan (SIP) submitted by the South Carolina Department of Health and Environmental Control (SC DHEC) on November 14, 2003, for the purpose of clarifying current regulations and ensuring consistency between State and Federal regulations. The revisions consist of those published in the South Carolina State Register on August 28, 1998 and June 25, 1999, revising

Regulation 61-62.1 Definitions and General Requirements.

**DATES:** This direct final rule is effective March 28, 2005 without further notice, unless EPA receives adverse comment by February 25, 2005. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID No. R04-OAR-2004-SC-0002 or R04-OAR-2004-SC-0003, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. Agency Web site: <http://docket.epa.gov/rmepub/> RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: [ward.nacosta@epa.gov](mailto:ward.nacosta@epa.gov).

4. Fax: 404-562-9019.

5. Mail: "R04-OAR-2004-SC-0002 or R04-OAR-2004-SC-0003", Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

6. Hand Delivery or Courier. Deliver your comments to: Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**Instructions:** Direct your comments to RME ID No. R04-OAR-2004-SC-0002 or R04-OAR-2004-SC-0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you

consider to be CBI or otherwise protected through RME, [regulations.gov](http://regulations.gov), or e-mail. The EPA RME website and the federal [regulations.gov](http://regulations.gov) website are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. 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 RME or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9140. Ms. Ward can also be reached via electronic mail at [ward.nacosta@epa.gov](mailto:ward.nacosta@epa.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Analysis of State's Submittal

On November 14, 2003, the South Carolina Department of Health and Environmental Control submitted revisions to the South Carolina SIP. These revisions were published in the South Carolina State Register on August 28, 1998 and June 25, 1999, revising Regulation 61–62.1 Definitions and General Requirements. The revisions include modifications to existing definitions and additions of new definitions and text to clarify Permitting Requirements.

### 1. Description of Revisions Published in the State Register as of August 28, 1998

a. In Regulation 61–62.1, Section I—Definitions, the State noted a discrepancy in the definition of Volatile Organic Compounds (VOC) and submitted a revised definition to restore uniformity to the SIP.

### 2. Description of Revisions Published in the State Register as of June 25, 1999

a. In Regulation 61–62.1, Section I—Definitions, the following definitions are being modified using language more consistent with State and Federal regulations:

- Air Curtain Incinerator
- Incinerator
- Industrial Furnace
- “Total reduced sulfur (TRS)”
- Used Oil
- Virgin Fuel
- Waste
- Waste Fuel

The following terms are being added to Section I:

- Clean Wood
- Commercial Incinerator
- Municipal Solid Waste
- Plastics/rubber Recycling Unit
- Pyrolysis/Combustion Unit
- Refuse-derived Fuel
- Sludge Combustors
- Untreated lumber

The following terms are being deleted from Section I:

- Municipal Incinerator
- Municipal Waste
- Sludge Incinerator

All subsequent definitions have been renumbered and formatted for consistency.

b. In Regulation 61–62.1, Section II—Permit Requirements, the existing text in A.2. and G.8.a. is being revised to include an exemption for the review and signature of construction permit applications. The exemption states that professional engineers employed by the government may also review and sign these documents if they are preparing applications for the Federal government.

c. In Regulation 61–62.1, Section II, A.3., the existing language is revised to clearly define construction permit exempt facilities. Part of the existing text in Section II, A.3. will be renumbered to Section II, A.4.

d. The SIP amendments to Regulation 61–62.1 were done concurrently with amendments to the State-only Regulation 61–62.5, Standard No. 3, Emissions from Incinerators. EPA will not be acting on the amendments to Regulation 61–62.5, Standard No. 3 because it is not a part of the federally approved SIP.

## II. Final Action

EPA is approving the aforementioned changes to the State of South Carolina SIP because they are consistent with the Clean Air Act and EPA policy. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective March 28, 2005 without further notice unless the Agency receives adverse comments by February 25, 2005.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on March 28, 2005 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## III. 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). This action 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. 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. 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 March 28, 2005. 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, Intergovernmental relations, and Reporting and recordkeeping requirements.

Dated: January 7, 2005.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ 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 *et seq.*

**Subpart PP—South Carolina**

■ 2. Section 52.2120(c) is amended under Regulation No. 62.1, by revising the entries for "Section I" and "Section II" to read as follows:

**§ 52.2120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA**

State citation	Title/subject	State effective date	EPA approval date	Federal Register notice
<b>Regulation No. 62.1 Definitions and General Requirements</b>				
Section I .....	Definitions .....	10/26/01	1/26/05	[Insert citation of publication].
Section II .....	Permit Requirements .....	06/27/03	1/26/05	[Insert citation of publication].
*	*	*	*	*

\* \* \* \* \*  
[FR Doc. 05-1374 Filed 1-25-05; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-2004-0341; FRL-7691-2]

**Imidacloprid; Pesticide Tolerances for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for the combined residues of imidacloprid, ((1-[6-chloro-3-pyridinyl] methyl)-N-nitro-2-imidazolidinimine) and its metabolites containing the 6-chloropyridinyl moiety, all expressed as parent in or on bananas and sunflowers. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal

Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on bananas and sunflower seed. This regulation establishes maximum permissible levels for residues of imidacloprid in these food commodities. The tolerances will expire and are revoked on December 31, 2007.

**DATES:** This regulation is effective January 26, 2005. Objections and requests for hearings must be received on or before March 28, 2005.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under Docket identification (ID) number OPP-2004-0341. 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 South 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:** 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 a federal or state government agency involved in administration of environmental quality programs (i.e., Departments of