List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: July 29, 2019.

Mary S. Walker,
Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart (S)—Kentucky

2. In §52.920, in paragraph (c), table 2, is amended:

<table>
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<tr>
<th>Reg</th>
<th>Title/subject</th>
<th>EPA approval date</th>
<th>Federal Register notice</th>
<th>District effective date</th>
<th>Explanation</th>
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<td>[Insert citation of publication].</td>
<td>1/17/18</td>
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<td>Coating Operations.</td>
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Findings of Failure to Submit for various requirements relating to the 2008 8-hour ozone national ambient air quality standards (NAAQS). This SIP revision is specific to nonattainment new source review (NSNR) requirements. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on September 11, 2019.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2019–0010. All documents in the docket are listed on the https://www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., confidential business information (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 through https://www.regulations.gov, or please contact the person identified in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Johansen, Permits Branch (3AD10), Air and Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2156. Ms. Johansen can also be reached via electronic mail at johansen.amy@epa.gov.

SUPPLEMENTARY INFORMATION:

1. Background

On April 19, 2019 (84 FR 16426), EPA published a notice of proposed rulemaking (NPRM) for Delaware. In the NPRM, EPA proposed approval of Delaware’s NSNR Certification for the 2008 8-hour ozone NAAQS. The formal SIP revision was submitted by the Department of Natural Resources and Environmental Control (DNREC) on
In addition, on February 3, 2017, EPA found that 15 states and the District of Columbia failed to submit SIP revisions in a timely manner to satisfy certain requirements for the 2008 8-hour ozone NAAQS that apply to nonattainment areas and/or states in the Ozone Transport Region (OTR). See 82 FR 9158. As explained in that rulemaking action, consistent with the CAA and EPA regulations, these Findings of Failure to Submit established certain deadlines for the imposition of sanctions, if a state does not submit a timely SIP revision addressing the requirements for which the finding is being made, and for the EPA to promulgate a Federal implementation plan (FIP) to address any outstanding SIP requirements.

EPA found, inter alia, that Delaware failed to submit SIP revisions in a timely manner to satisfy NNSR requirements for the Seaford and Philadelphia Areas. Delaware submitted its June 29, 2018 SIP revision to address the specific NNSR requirements for the 2008 8-hour ozone NAAQS, located in 40 CFR 51.160 through 165, as well as its obligations under EPA’s February 3, 2017 Findings of Failure to Submit. EPA’s analysis of how this SIP revision addresses the NNSR requirements for the 2008 8-hour ozone NAAQS and the Findings of Failure to Submit was discussed in the NPRM and will not be restated here.

III. Public Comments and EPA Response

EPA received two sets of comments on the April 19, 2019 NPRM. See 84 FR 16426. One set of comments was in support of EPA’s proposed rulemaking action. With respect to the second set of comments, only one comment is relevant to this action and requires a response. A summary of the comment and EPA’s response is discussed in this Section. A copy of the comments can be found in the docket for this rulemaking action.

1 The SIP Requirements Rule addresses a range of nonattainment area SIP requirements for the 2008 8-hour ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology, reasonably available control measures, major source review, emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. The rule also revokes the 1997 ozone NAAQS and establishes anti-backsliding requirements.

2 On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit (DC Cir. Court or Court) issued an opinion on the EPA’s SIP Requirements Rule. South Coast Air Quality Mgmt. Dist. v. EPA, 882 F.3d 1318, 2018 U.S. App. LEXIS 3636 (DC Cir. Feb. 16, 2018). The DC Cir. Court found certain provisions from the SIP Requirements Rule to be inconsistent with the statute or unreasonable and vacated those provisions. Id. The Court found other parts of the SIP Requirements Rule reasonable and denied the petition for appeal on those provisions. Id.

3 On November 2, 2017, EPA approved a DOA for the 2008 8-hour ozone NAAQS for Philadelphia Area. This action was based on complete, certified, and quality assured ambient air quality monitoring data for the 2013–2015 monitoring period. See 82 FR 50814. It should be noted that a DOA does not alleviate the need for Delaware to certify that their existing SIP address the requirements as stringent as the requirements at 40 CFR 51.165, as NNSR applies in nonattainment areas until an area has been redesignated to attainment.

4 Neither Delaware’s obligation to submit the NNSR Certification SIP nor the requirements governing that submission were affected by the D.C. Circuit’s February 16, 2018 decision on portions of the SIP Requirements Rule in South Coast Air Quality Mgmt. Dist. v. EPA.
Comment: The commenter makes note that volatile organic compounds (VOC) are defined as those in 40 CFR 51.100(s), but that Delaware’s regulations don’t include the correct version of what is being defined as a VOC. The commenter references EPA’s February 12, 2019 NPRM, where EPA is approving Delaware’s definition change of VOC. The commenter also notes suggests that EPA should wait until Delaware’s regulations match the requirements in 40 CFR 51.165 exactly before approving this NNSR submission and suggests EPA to look at Delaware’s regulation 1125.

Lastly, the commenter notes that changes have also been made to the rules governing the Prevention of Significant Deterioration (PSD) program and related modeling requirements.

EPA Response: Delaware’s certification applies to its NNSR program, not to its PSD program. The commenter’s concerns related to PSD and related modeling are not relevant to EPA’s action to approve Delaware’s NNSR certification, and as such do not warrant consideration in the final rule.

EPA finalized its approval of the NPRM that the commenter referred to in their comments. In that February 12, 2019 rulemaking action, EPA proposed approval of Delaware’s revision to Section 2 of 7 DE Admin Code 1101, where the state updated its definition of VOC to conform to EPA’s current definition of VOC in 40 CFR 51.100(s).

EPA finalized approval of that action on May 31, 2019. See 84 FR 25183.

EPA disagrees with the commenter’s assertion that EPA should wait until Delaware’s regulations match 40 CFR 51.165 exactly until it approves this rulemaking action. Delaware evaluated the necessary regulations for this rulemaking action and certified in its June 29, 2018 SIP revision that its existing Federally-approved NNSR program is at least as stringent as the Federal NNSR requirements found at 40 CFR 51.165, and based on EPA’s analysis of that SIP revision, EPA agrees with Delaware and is moving forward to approve this rulemaking action.

IV. Final Action

EPA is approving Delaware’s June 29, 2018 SIP revision addressing the NNSR requirements for the 2008 ozone NAAQS for the Seafood and Philadelphia Areas. EPA has concluded that Delaware’s submission fulfills the 40 CFR 51.1114 revisions requirement, meets the requirements of CAA sections 110 and 172 and the minimum SIP requirements of 40 CFR 51.165, as well as its obligation under EPA’s February 3, 2017 Findings of Failure to Submit. See 82 FR 9158.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a).

Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 23355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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 action 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).

C. 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 October 11, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 pertaining to Delaware’s NNSR program and the 2008 8-hour ozone NAAQS 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 29, 2019.

Diana Esher,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:
Supplementary Information

DATES:

SUMMARY:

ACTION:

AGENCY:

Pydiflumetofen; Pesticide Tolerances

40 CFR Part 180


Pydiflumetofen; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of pydiflumetofen in or on multiple commodities which are identified and discussed later in this document. Syngenta Crop Protection requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 12, 2019. Objections and requests for hearings must be received on or before October 11, 2019 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the SUPPLEMENTARY INFORMATION).

ADDITIONAL INFORMATION:

FOR FURTHER INFORMATION CONTACT:

MATERIALS:

AFFIRMATIVE ACTION:

DISTRIBUTION:

ENFORCEMENT:

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180


Pydiflumetofen; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of pydiflumetofen in or on multiple commodities which are identified and discussed later in this document. Syngenta Crop Protection requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 12, 2019. Objections and requests for hearings must be received on or before October 11, 2019 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the SUPPLEMENTARY INFORMATION).

ADDITIONAL INFORMATION:

FOR FURTHER INFORMATION CONTACT:

Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: RDFRNotices@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. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

• Crop production (NAICS code 111).
• Animal production (NAICS code 112).
• Food manufacturing (NAICS code 311).
• Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?


C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0688 in the subject line of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before October 11, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0688, by one of the following methods:

• Electronic: Federal eRulemaking Portal: http://www.regulations.gov. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
• Mail: OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), 2800 Pennsylvania Ave. NW, Washington, DC 20460–0001.

II. Summary of Petitioned-For Tolerance

In the Federal Register of April 19, 2019 (84 FR 16430) (FRL–9991–14), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C.