

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**. This rule 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 Clean Air Act, petitions for judicial review of this final rule must be filed in the United States Court of Appeals for the appropriate circuit by January 7, 2002. 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 approving Maryland VOC RACT regulation for iron and steel production facilities 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, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: October 5, 2001.

Thomas Voltaggio,

Acting Regional Administrator, 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 V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(163) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(163) Revisions to the Maryland Regulations submitted on January 8, 2001 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter dated January 8, 2001 from the Maryland Department of the Environment transmitting regulations

that establish reasonably available control technology (RACT) requirements for those sources at integrated steel mills that cause emissions of volatile organic compounds (VOCs).

(B) The following revisions to COMAR 26.11.10, effective December 25, 2000:

(1) Addition of COMAR 26.11.10.01B(1) through .01B(5) inclusive, and .01B(8.) [existing provisions .01B(1) and .01B(2) are renumbered as .01B(6) and .01B(7) respectively].

(2) New COMAR 26.11.10.06 (Control of Volatile Organic Compounds from Iron and Steel Production Installations).

(3) Revisions to COMAR 26.11.10.07 (Testing and Observation Procedures).

(C) Letter dated May 29, 2001 from the Maryland Department of the Environment, noting the correction of a typographical error made in the Maryland Register publication of the Iron and Steel VOC RACT rule.

(ii) Additional Materials—Remainder of the state submittal pertaining to the regulations listed in paragraph (c)(163)(i)(B) of this section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL-056-200204; FRL-7098-7]

Approval and Promulgation of Implementation Plans: Alabama: Attainment Demonstration of the Birmingham 1-hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving additions to Alabama's Air Quality Regulations and the ground-level 1-hour ozone attainment demonstration State Implementation Plan (SIP) for the Birmingham nonattainment area submitted by the Alabama Department of Environmental Management (ADEM) on November 1, 2000. This rule is based on the requirements of the Clean Air Act as amended in 1990 (CAA), related to 1-hour ozone attainment demonstrations. EPA will be approving the fuel control measure in a separate **Federal Register** action.

EFFECTIVE DATE: This final rule is effective on December 7, 2001.

ADDRESSES: Copies of documents relative to this action are available at the

following addresses for inspection during normal business hours:

Environmental Protection Agency,
Region 4, Air Planning Branch, 61
Forsyth Street, SW., Atlanta, Georgia
30303-8960.

Alabama Department of Environmental
Management, 400 Coliseum
Boulevard, Montgomery, Alabama
36110-2059.

FOR FURTHER INFORMATION CONTACT:

Sean Lakeman, Regulatory Development
Section, Air Planning Branch, 61
Forsyth Street, SW., Atlanta, Georgia
30303-8960. The telephone number is
(404) 562-9043. Mr. Lakeman can also
be reached via electronic mail at
lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION: On November 1, 2000, the Alabama Department of Environmental Management (ADEM) submitted a revision to its ground-level 1-hour ozone attainment SIP to meet the requirements of the CAA as amended in 1990, related to 1-hour ozone attainment demonstrations. The revision consists of the adoption of the regulatory section, chapter 335-3-8 Control of Nitrogen Oxide Emissions: (.03) NO_x Emissions from Electric Utility Generating Units, and the adoption of the non-regulatory ground-level 1-hour ozone attainment demonstration. On September 11, 2001, (66 FR 47145) EPA published a notice proposing to approve the November 1, 2000, ground-level 1-hour ozone attainment demonstration and the associated regulations. That notice provided for a public comment period ending on October 11, 2001. A detailed description of this attainment demonstration and EPA's rationale for approving it was provided in the proposal notice and will not be restated here. No adverse comments were received on EPA's proposal.

I. Final Action

EPA is approving the ground-level 1-hour ozone attainment demonstration for Birmingham and the associated regulations, which were submitted to EPA on November 1, 2000. EPA finds that Alabama's submittal is fully approvable.

II. Administrative Requirements

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 CAA. 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 CAA. 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 CAA. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 7, 2002. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 24, 2001.

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 B—Alabama

2. Section 52.50 is amended by:

A. Adding in paragraph (c) a new entry in Chapter No. 335-3-8—Nitrogen Oxides Emissions for Section 335-3-8-.03; and

B. Adding a new entry at the end of the table in paragraph (e) for "Attainment Demonstration of the 1-hour NAAQS for Ozone for the Birmingham Nonattainment Area" to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED ALABAMA REGULATIONS

State citation	Title subject	Adoption date	EPA approval date	Federal Register notice
*	*	*	*	*
Chapter No. 335-3-8 Nitrogen Oxides Emissions				
*	*	*	*	*
Section 335-3-8-.03	NO _x Emissions from Electric Utility Generating Units.	October 24, 2000	November 7, 2001	[Insert citation of publication].
*	*	*	*	*

(d) * * *

(e) * * *

Provision	State effective date	EPA approval date	Federal Register notice	Comments
* Attainment Demonstration of the 1-hour NAAQS for Ozone for the Birmingham Non-attainment Area.	* December 1, 2000	* November 7, 2001	* [Insert citation of publication].	*

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-301187; FRL-6806-9]

RIN 2070-AB78

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 in or on almond nutmeat, almond hulls, and cranberries and modifies the existing time limited tolerances for stone fruit and prunes. 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 almonds, stone fruit, and cranberries. This regulation establishes maximum permissible levels for residues of imidacloprid in these food commodities. The tolerances will expire and are revoked on December 31, 2003.

DATES: This regulation is effective November 7, 2001. Objections and requests for hearings, identified by docket control number OPP-301187, must be received by EPA on or before January 7, 2002.

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-301187 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,

Washington, DC 20460; telephone number: (703) 308-9367; and e-mail address: ertman.andrew@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:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide 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 the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have 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 Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR

part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml/00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301187. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the insecticide 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 almond nutmeat at 0.05 part per million (ppm), almond hulls at 4.0 ppm, cranberries at 0.5 ppm and modifying the existing time limited tolerances for stone fruit from 1.0 ppm to 3.0 ppm and prunes from 3.5 ppm to 10.0 ppm. These tolerances will expire and are revoked on December 31, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(1)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the