

not included in the partnership's original return and statement.

§ 1.709-2 Definitions.

(a) *Organizational expenses.* Section 709(b)(2) of the Internal Revenue Code defines organizational expenses as expenses which:

- (1) Are incident to the creation of the partnership;
- (2) Are chargeable to capital account; and
- (3) Are of a character which, if expended incident to the creation of a partnership having an ascertainable life, would (but for section 709(a)) be amortized over such life.

An expenditure which fails to meet one or more of these three tests does not qualify as an organizational expense for purposes of section 709(b) and this section. To satisfy the statutory requirement described in paragraph (a)(1) of this section, the expense must be incurred during the period beginning at a point which is a reasonable time before the partnership begins business and ending with the date prescribed by law for filing the partnership return (determined without regard to any extensions of time) for the taxable year the partnership begins business. In addition, the expenses must be for creation of the partnership and not for operation or starting operation of the partnership trade or business. To satisfy the statutory requirement described in paragraph (a)(3) of this section, the expense must be for an item of a nature normally expected to benefit the partnership throughout the entire life of the partnership. The following are examples of organizational expenses within the meaning of section 709 and this section: Legal fees for services incident to the organization of the partnership, such as negotiation and preparation of a partnership agreement; accounting fees for services incident to the organization of the partnership; and filing fees. The following are examples of expenses that are not organizational expenses within the meaning of section 709 and this section (regardless of how the partnership characterizes them): Expenses connected with acquiring assets for the partnership or transferring assets to the partnership; expenses connected with the admission or removal of partners other than at the time the partnership is first organized; expenses connected with a contract relating to the operation of the partnership trade or business (even where the contract is between the partnership and one of its members); and syndication expenses.

(b) *Syndication expenses.* Syndication expenses are expenses connected with

the issuing and marketing of interests in the partnership. Examples of syndication expenses are brokerage fees; registration fees; legal fees of the underwriter or placement agent and the issuer (the general partner or the partnership) for securities advice and for advice pertaining to the adequacy of tax disclosures in the prospectus or placement memorandum for securities law purposes; accounting fees for preparation of representations to be included in the offering materials; and printing costs of the prospectus, placement memorandum, and other selling and promotional material. These expenses are not subject to the election under section 709(b) and must be capitalized.

(c) *Beginning business.* The determination of the date a partnership begins business for purposes of section 709 presents a question of fact that must be determined in each case in light of all the circumstances of the particular case. Ordinarily, a partnership begins business when it starts the business operations for which it was organized. The mere signing of a partnership agreement is not alone sufficient to show the beginning of business. If the activities of the partnership have advanced to the extent necessary to establish the nature of its business operations, it will be deemed to have begun business. Accordingly, the acquisition of operating assets which are necessary to the type of business contemplated may constitute beginning business for these purposes. The term "operating assets", as used herein, means assets that are in a state of readiness to be placed in service within a reasonable period following their acquisition.

Par. 2. Paragraph (c) of § 1.707-1 is amended by inserting a period after the phrase "accrued under its method of accounting" and by striking out the sentence immediately following the phrase "section 162(a) (relating to trade or business expenses)." and inserting in lieu of that sentence the following three sentences:

§ 1.707-1 Transactions between partner and partnership.

(c) *Guaranteed payments.* * * * For a guaranteed payment to be a partnership deduction, it must meet the same tests under section 162(a) as it would if the payment had been made to a person who is not a member of the partnership, and the rules of section 263 (relating to capital expenditures) must be taken into account. This rule does not affect the deductibility to the partnership of a payment described in section 736(a)(2)

to a retiring partner or to a deceased partner's successor in interest. Guaranteed payments do not constitute an interest in partnership profits for purposes of sections 706(b)(3), 707(b), and 708(b).

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: April 15, 1983.
John E. Chapoton,
Assistant Secretary of the Treasury.
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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

Approval of an Amendment to the Oklahoma State Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing its approval of a program amendment to Oklahoma's program to control surface coal mining and reclamation operations. The amendment consists of changes to the State's rules regarding effluent limitations for surface and underground coal mining activities and was submitted to meet the requirements of similar revisions that were made by OSM to the Federal rules.

EFFECTIVE DATE: May 4, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Markey, Director, Tulsa Field Office, Office of Surface Mining, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103; Telephone: (918) 581-7927.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma State Program

Information regarding the general background on the Oklahoma State program can be found at 46 FR 4910 (January 19, 1981), 47 FR 14152 (April 2, 1982), and 47 FR 37080 (August 25, 1982).

II. Discussion of the Amendment

On October 21, 1982, OSM promulgated changes to 30 CFR 816.42 (a)(7) and (b), and 817.42 (a)(7) and (b),

the Federal provisions governing water discharge standards (See 47 FR 47216 for further information on the changes made to those Federal rules). Under the revised Federal rules, discharges of water from areas disturbed by surface or underground mining activities shall be made in compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR Part 434. Further, the original provisions of 30 CFR 816.42(b) and 817.42(b), which set forth the conditions when a discharge from the disturbed area would not be subject to the effluent limitations, were removed.

On February 22, 1983, OSM received a proposed program amendment from the Oklahoma Department of Mines intended to modify the State's rules to reflect the changes made to 30 CFR 816.42(a)(7) and (b), and 817.42(a)(7) and (b). See OK-451. The Department of Mines indicated in its transmittal letter that it had adopted the new water discharge standards by emergency declaration and that it was presently proceeding to promulgate these changes on a permanent basis through the State's formal rulemaking process. The final rules are expected to be promulgated by July 1983.

The full text of Oklahoma's proposed amendment to its regulations is as follows:

Section 816.42(a)(7) is hereby repealed.

Section 816.42(b) is hereby repealed, and the following substituted:

Discharges of water from areas disturbed by surface mining activities shall be made in compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR Part 434.

Section 817.42(a)(7) is hereby repealed.

Section 817.42(b) is hereby repealed, and the following substituted:

Discharges of water from areas disturbed by underground mining activities shall be made in compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR Part 434.

On March 18, 1983, OSM published a notice in the *Federal Register*, announcing receipt of the amendment and inviting public comment on the

adequacy of the amendment (48 FR 11465-11466). The public comment period ended on April 4, 1983.

On April 19, 1983, the Acting Administrator of the Environmental Protection Agency provided written concurrence on Oklahoma's amendment.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15(b)(1), that the program amendment provides for effluent limitations for surface and underground coal mining and reclamation operations and that the revised Oklahoma rules at §§ 816.42(b) and 817.42(b) are no less effective than 30 CFR 816.42(b) and 817.42(b).

IV. Public Comments

While public comments were requested, no substantive comments were received. Acknowledgements were received from the following government agencies:

U.S. Department of Agriculture, Soil Conservation Service
U.S. Environmental Protection Agency

The disclosure of government agency comments is made pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(10)(i).

V. Director's Decision

Accordingly, the Director, based on the above finding, is approving the February 22, 1983, program amendment to §§ 816.42(b) and 817.42(b) of the Oklahoma rules.

VI. Other Information

The Federal rules at 30 CFR 936.15 are being amended to reflect the action being taken today. Further, OSM is adding additional language to that Section to describe more clearly a previously approved amendment to the Oklahoma program. No substantive change to the Federal rule is intended.

VII. Procedural Matters

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act.* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions

directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 936

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: April 28, 1983.

Carson W. Culp,

Acting Director, Office of Surface Mining.

PART 936—OKLAHOMA

1. The authority citation for Part 936 is:

Authority: Sec. 503, Pub. L. 95-87, 91 Stat. 407 (30 U.S.C. 1253).

2. 30 CFR 936.15 is revised by designating the existing paragraph as paragraph (a), and by adding a new paragraph (b). Further, paragraph (a) has been clarified by including a brief description of the amendment to the Oklahoma permanent regulatory program that was approved on April 2, 1982. Revised § 936.15 reads as follows:

§ 936.15 Approval of regulatory program amendments.

(a) The Oklahoma permanent regulatory program amendment consisting of a set of new permanent rules, received by OSM on January 22, 1982, as corrected by Oklahoma on March 18, 1982, is approved effective April 2, 1982.

(b) The Oklahoma program amendment to §§ 816.42(b) and 817.42(b) of the Oklahoma rules governing effluent limitations, received by OSM on February 22, 1983, is approved effective May 4, 1983.

[FR Doc. 83-11912 Filed 5-3-83; 8:45 am]

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ENVIRONMENTAL PROTECTION
AGENCY

40 CFR Part 52

[A-1-FRL 2317-7]

Approval and Promulgation of
Implementation Plans; Sulfur-in-Fuel
Regulations; ConnecticutAGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut under its State Energy Trade (SET) program. The intended effect of the rulemaking is to promulgate a change in the sulfur-in-oil SIP limit for Lydall, Inc., in Manchester, Connecticut, so it may burn 1.9% sulfur oil.

EFFECTIVE DATE: May 4, 1983.

ADDRESSEES: Copies of the Connecticut submittals are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2312, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; the Office of the Federal Register, 1100 L Street, N.W., Room 9401, Washington, D.C.; and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06106.

FOR FURTHER INFORMATION CONTACT: Sarah Simon, Air Management Division, Room 2312, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5833.

SUPPLEMENTARY INFORMATION: The Connecticut Department of Environmental Protection (DEP) has requested approval of a sulfur-in-oil relaxation for Lydall & Foulds Division, Lydall, Inc., in Manchester, Connecticut. The State's revision is based on an approval under its State Energy Trade (SET) Program. The revision will allow Lydall to burn oil containing 1.9% sulfur. As detailed in the SIP, the SET program provides a method for calculating a new, allowable sulfur limit each year based on oil conversation at the facility (premise) and establishes a well-defined procedure to ensure that these limits comply with the Clean Air Act requirements. EPA proposed to approve the generic procedures of the SET program on May 1, 1981 (46 FR 24597). At that time, we also proposed to approve revised sulfur-in-oil limitations for all Connecticut sources under 250 Million British Thermal Units per hour

(MBTU/hr.) which would later be approved by the DEP Commissioner under the SET program. EPA approved the SET program on August 28, 1981 (46 FR 43418) and set up a stream-lined procedure for final federal approval of most of the individual source revisions. We also approved a regulation directly governing this program [Connecticut Regulation 19-508-19(a)(3)(i)] on November 18, 1981 (46 FR 56612).

Although Lydall only has one 30 MBTU/hr boiler, this revision will make Lydall a major sulfur dioxide (SO₂) source (capable of emitting more than 100 tons per year), and the DEP reviewed the impacts of the revision by using the conservative, screening analysis methodology spelled out in the Connecticut Ambient Impact Analysis Guideline (approved at 46 FR 43418). The full record of the modeling review is on file at the DEP Office.

To summarize briefly, the modeling used DEP's PMTPA-Conn. model with appropriate background levels and indicated that the revision will not cause any violation of the sulfur dioxide or total suspended particulate National Ambient Air Quality Standards (NAAQS). In addition, the source is more than 20 kilometers from any Prevention of Significant Deterioration (PSD) baseline areas. EPA has determined that the revision will not violate any PSD increments.

The State has complied with all procedures required by State Regulation 19-508-19(a)(3)(i) and the SIP narrative for sources such as Lydall that have no boilers greater than 250 MBTU/hr. The DEP has reviewed this premise's application and determined what sulfur limit is allowable under the SET program. DEP has notified the public of Lydall's application and DEP's proposed decision, has held a hearing, and has submitted the documents and determinations required by the SET program and federal SIP approval.

There was only one comment received by the State on this SET action proposal. This comment raised concerns about the potential adverse effect of burning higher sulfur oil and alleged that the State's public notice of Lydall's application was inadequate and misleading. The State responded to this administrative concern when it completed its review, gave notice of its proposed findings, and held a hearing. The same concerns about burning higher sulfur oil had also been raised in litigation related to the general SET program and recent statewide sulfur-in-oil revision. These concerns were resolved in favor of EPA's original determination that our revision approval actions were acceptable.

(See *CFE v. EPA*, 696 F. 2d 179 (2d Cir., 1982), *CFE v. EPA*, F. 2d 169 (2d Cir., 1982).)

The public has had full opportunity to review the DEP action for these relatively small sources in accordance with the procedures spelled out in EPA's SET program approval. Thus, we are not publishing an additional Notice of Proposed Rulemaking for this individual source action.

EPA concurs in the State's assessment that this revision is an enforceable SIP revision that will not violate NAAQS. Therefore, EPA is approving Lydall's sulfur-in-oil revision, which raises Lydall's sulfur limit to 1.9%.

EPA finds good cause for making this action effective immediately, because the new sulfur limit is already in effect under State law and imposes no additional regulatory burden. The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court for the appropriate circuit by (60 days from today). 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

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: April 24, 1983.

Lee L. Verstandig,
Acting Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart H—Connecticut

1. Section 52.370, paragraph (c) is amended by adding subparagraph (27) as follows:

§ 52.370 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified.

(27) Revision for Lydall & Foulds Division of Lydall, Inc., submitted by the Commissioner of the Connecticut Department of Environmental Protection on December 17, 1982 and January 5, 1983, allowing the facility to burn higher

sulfur oil under the State Energy Trade Program.

[FR Doc. 83-11820 Filed 5-3-83; 8:45 am]

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40 CFR Part 180

[PP 2E2654/R549; PH-FRL 2357-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agriculture Commodities; Inorganic Bromides Resulting From Fumigation With Methyl Bromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of inorganic bromides, resulting from post-harvest fumigation with the pesticide methyl bromide, in or on the raw agricultural commodity strawberries. This regulation to establish a maximum permissible level for residues of inorganic bromides in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on May 4, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response and Minor Use Section, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule published in the Federal Register of March 16, 1983 (48 FR 11134) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 2E2654 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose (1) amending the existing tolerance in 40 CFR 180.123 for residues of inorganic bromides (resulting from fumigation with the pesticide methyl bromide) in or on the raw agricultural commodity strawberries to reflect a post-harvest fumigation use as well as the current pre-harvest use, and (2) increasing the existing tolerance for

inorganic bromides in or on strawberries (from use before harvest) from 30 parts per million (ppm) to 60 ppm.

There were no comments or request for referral to an advisory committee received in response to the proposed rule.

The date submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 25, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

Therefore, 40 CFR 180.123 is revised to read as follows:

§ 180.123 Inorganic bromides resulting from fumigation with methyl bromide; tolerances for residues.

Tolerances are established for residues of inorganic bromides (calculated as Br) in or on the following raw agricultural commodities which have been fumigated with the antimicrobial agent and insecticide methyl bromide after harvest (with the exception of strawberries):

Commodities	Parts per million
Alfalfa, hay (Post-H)	50.0
Almonds (Post-H)	200.0
Apples (Post-H)	5.0
Apricots (Post-H)	20.0
Artichokes, Jerusalem (Post-H)	30.0
Asparagus (Post-H)	100.0
Avocados (Post-H)	75.0

Commodities	Parts per million
Barley (Post-H)	50.0
Beans (Post-H)	50.0
Beans, green (Post-H)	50.0
Beans, lima (Post-H)	50.0
Beans, snap (Post-H)	50.0
Beets, garden, roots (Post-H)	30.0
Beets, sugar, roots (Post-H)	30.0
Brazil nuts (Post-H)	200.0
Bush nuts (Post-H)	200.0
Butternuts (Post-H)	200.0
Cabbage (Post-H)	50.0
Cantaloupes (Post-H)	20.0
Carrots (Post-H)	30.0
Cashews (Post-H)	200.0
Cherries (Post-H)	20.0
Chestnuts (Post-H)	200.0
Cippolini, bulbs (Post-H)	50.0
Citrus citron (Post-H)	30.0
Cocoa beans (Post-H)	50.0
Coffee beans (Post-H)	75.0
Copra (Post-H)	100.0
Corn (Post-H)	50.0
Corn (pop) (Post-H)	240.0
Corn, sweet (K + CWHF) (Post-H)	50.0
Cottonseed (Post-H)	200.0
Cucumbers (Post-H)	30.0
Cumin, seed (Post-H)	100.0
Eggplants (Post-H)	20.0
Filberts (Hazelnuts) (Post-H)	200.0
Garlic (Post-H)	50.0
Ginger, roots (Post-H)	100.0
Grapefruit (Post-H)	30.0
Grapes (Post-H)	20.0
Hickory nuts (Post-H)	200.0
Honeydew melons (Post-H)	20.0
Horseshoe (Post-H)	30.0
Kumquats (Post-H)	30.0
Lemons (Post-H)	30.0
Limes (Post-H)	30.0
Mangoes (Post-H)	20.0
Muskmelons (Post-H)	20.0
Nectarines (Post-H)	50.0
Oats (Post-H)	30.0
Okra (Post-H)	20.0
Onions (Post-H)	30.0
Oranges (Post-H)	20.0
Papayas (Post-H)	30.0
Parsnips, roots (Post-H)	20.0
Peaches (Post-H)	200.0
Peanuts (Post-H)	5.0
Pears (Post-H)	50.0
Peas (Post-H)	50.0
Peas, blackeyed (Post-H)	200.0
Pecans (Post-H)	30.0
Peppers (Post-H)	30.0
Pimentos (Post-H)	20.0
Pineapples (Post-H)	200.0
Pistachio nuts (Post-H)	20.0
Plums (Post-H)	100.0
Pomegranates (Post-H)	75.0
Potatoes (Post-H)	20.0
Pumpkins (Post-H)	5.0
Quinces (Post-H)	50.0
Radishes (Post-H)	50.0
Rice (Post-H)	30.0
Rutabagas (Post-H)	30.0
Rye (Post-H)	30.0
Salsify, roots (Post-H)	50.0
Sorghum, grain (Post-H)	200.0
Soybeans (Post-H)	30.0
Squash, summer (Post-H)	20.0
Squash, winter (Post-H)	20.0
Squash, zucchini (Post-H)	60.0
Strawberries (Pre- and Post-H)	75.0
Sweet potatoes (Post-H)	30.0
Tangerines (Post-H)	50.0
Timothy, hay (Post-H)	20.0
Tomatoes (Post-H)	30.0
Turnips, roots (Post-H)	200.0
Walnuts (Post-H)	20.0
Watermelons (Post-H)	20.0

[FR Doc. 83-11763 Filed 5-3-83; 8:45 am]

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