

Comments on the Proposed Changes

The only response to the Commission's invitation for comments on the proposed changes was filed by the Postal Service, which generally supported the informal investigation option, but thought there was some ambiguity concerning the deadline for filing answers to complaints. The Service suggested alternative language specifying that Postal Service answers to complaints not be due until thirty days after the Commission issues an order requesting an answer. The Service did not comment on the Commission's proposal to delete language referring to administrative law judges.

Changes in the Complaint Rules

In light of the fact that proposed section 3001.85(a) provides that the Commission will give notice of whether or not it intends to use informal procedure, and, in either case, will grant the Postal Service additional time to answer the complaint if circumstances render the usual thirty-day deadline inappropriate, we believe the Service's suggestion is unnecessarily rigid. In some circumstances, it might unduly delay resolution of the issues raised in the complaint; in other cases, it might not provide sufficient time for the Service to prepare an adequate answer. Given that the Commission's proposal addresses filing deadlines beyond the standard thirty-day period (and in no circumstance ever requires that an answer be filed less than thirty days after filing of a complaint), we believe that granting additional time "as just and appropriate" is the better approach. Unlike the Service's proposal, this standard allows time periods for responses to be tailored to specific complaint cases. In many instances, we believe this flexibility will allow issues to be resolved more efficiently and expeditiously than they would be under the Service's proposal. Accordingly, we have determined to amend § 3001.84 and § 3001.85 in the manner described in the Notice of Proposed Rulemaking and set out below.

In addition, we must bear in mind that § 3001.84 must be drafted as to cover both service and rate complaints. For reasons suggested in the notice in this docket (48 FR 482), the present amendments do not apply to rate complaints. The Postal Service's suggested rewriting of § 3001.85(a) would make it applicable to rate matters, but its comment does not discuss that change. Given our decision to limit the amendment to the types of cases in which we think it would be

useful, we believe that our original revisions of § 3001.84 is superior.

Amendment of § 3001.23(c). As discussed in detail in the Notice of Proposed Rulemaking, the first sentence of § 3001.23(c) of the rules of practice [39 CFR 3001.23(c)] incorporates a mandate that administrative law judges employed by the Commission are not to perform duties inconsistent with their responsibilities as hearing officers in Commission proceeding. The Commission has determined to delete this sentence because it no longer employs administrative law judges and because retaining this language in the rules of practice might cause confusion regarding the ability of a Commissioner to perform other functions while he is serving as Presiding Officer in a Commission proceeding. In light of this change, the subtitle of the section is changed from "Limitations" to "Ex parte communications" because the Commission believes the latter title provides a better description of the part of § 3001.23(c) that remains after deletion of the first sentence.

Impact of Changes

Pursuant to Executive Order 12291, the Commission finds that the rule changes do not constitute a "major rule." The changes deal with procedural matters and it is not anticipated that they could result in an appreciable change in the costs of participating in these cases, nor that they will have an adverse effect on competition, employment or the other factors listed in E.O. 12291. The conclusion that the rule changes do not constitute a major rule for purposes of E.O. 12291 applies to the Regulatory Flexibility Act as well.

The preceding impact analysis and a request for comments regarding it was inadvertently omitted from the Notice of Proposed Rulemaking. The Commission concludes that the omission was without prejudice to interested parties.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure.

PART 3001—RULES OF PRACTICE AND PROCEDURE

For the reasons set out above, the Commission amends §§ 3001.23(c) and 3001.84 and 3001.85 of the rules of practice [39 CFR 3001.23(c), 3001.84, 3001.85], as follows:

§ 3001.23 [Amended]

1. In § 3001.23(c), change the title from "Limitation." to "Ex parte communication." and remove the first sentence in its entirety.

2. Revise § 3001.84 introductory text to read as follows:

§ 3001.84 Answers by the Postal Service.

Within 30 days after the filing of a complaint with the Commission (unless more time is allowed under § 3001.85(a)), the Postal Service shall file and serve an answer. Such answer shall be in the form and manner required by §§ 3001.9 to 3001.12, and shall include the following:

3. Redesignate present § 3001.85 as paragraph (b), and add before it a new paragraph (a), as follows:

§ 3001.85 Informal procedures.

(a) In case of a complaint alleging service not in accordance with the policies of the Act, the Commission, acting through such appropriate Commission employees as the Chairman shall designate, may use correspondence, conferences, or other appropriate informal inquiry methods to define the issues, further the exchange of information and explanations between the Postal Service and the complainant, and facilitate negotiated settlement. On receiving a service complaint, the Commission will give a notice of whether or not it intends to use informal procedures. In either case, it will give the Postal Service such additional time to answer the complaint as is just and appropriate. After expeditiously conducting informal inquiries, it will issue an order summarizing the results. All correspondence and other documents issued by or lodged with the Commission during informal inquiries will be part of the public record of the case.

(39 U.S.C. 3603, 3624, and 3662)

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 84-4657 Filed 2-21-84; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2529-8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: USEPA announces final rulemaking on a revision to the Illinois

State Implementation Plan (SIP) for ozone. The SIP revision will provide an alternative compliance schedule for the Del Monte Corporation (Del Monte) facility located in Ogle County, Illinois. This SIP will allow Del Monte additional time to comply with the Volatile Organic Compound (VOC) emission limitations for its sheet basecoat, overvarnish, and end sealing compound can coating operations. USEPA's action is based upon a proposed revision which was submitted by the State.

This action will be effective April 23, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

DATE: This action is effective April 23, 1984.

ADDRESSES: Copies of this revision to the Illinois SIP are available for inspection at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan at (312) 353-0396 before visiting the Region V Office).

U.S. Environmental Protection Agency
Air and Radiation Branch, Region V,
230 South Dearborn Street, Chicago,
Illinois 60604.

U.S. Environmental Protection Agency,
Public Information Reference Unit, 401
M Street SW., Washington, D.C. 20460
Illinois Environmental Protection
Agency, Division of Air Pollution
Control, 2200 Churchill Road,
Springfield, Illinois 62706.

Written comments should be sent to:
Gary Gulezian, Chief, Regulatory
Analysis Section, Air Programs Branch
(5AP-26), Environmental Protection
Agency, Region V, 230 South Dearborn
Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:
Uylaine E. McMahan, (312) 353-0396.

SUPPLEMENTARY INFORMATION: On August 15, 1983, the Illinois Environmental Protection Agency (IEPA) submitted a proposed revision to its ozone SIP for Del Monte's Can Manufacturing Plant No. 115 located in Rochelle, Ogle County, Illinois. This proposed revision is in the form of a May 19, 1983, Opinion and Order of the Illinois Pollution Control Board (IPCB 82-147). It grants a variance from the existing SIP requirements until December 31, 1984, and provides a legally enforceable compliance schedule.

USEPA's policy on approving compliance schedule extensions for

controlling VOC emissions from certain can manufacturing processes was published in the March 10, 1982, **Federal Register** (47 FR 10293). The policy states that such extensions will be approved for sheet base coat and end sealing compound processes in circumstances where the extension will facilitate the expeditious conversion to low solvent technology. It is USEPA's policy that such extensions may be granted until 1985.

Under the federally approved Illinois SIP, the sheet basecoat and overvarnish coating operations and end sealing coating operations are subject to the emission control requirements contained in Rule 205(n)(1)(B)(i) and Rule 205(n)(1)(B)(vi) respectively. Rule 205(n)(1)(B)(i) requires that basecoat and overvarnish coating process VOC emissions do not exceed 2.8 pounds per gallon (lbs/gal) and Rule 205(n)(1)(B)(vi) requires that end sealing compound coating process VOC emissions do not exceed 3.7 lbs/gal. Final compliance is required by December 31, 1982.

In lieu of the compliance date contained in the existing federally approved SIP, the State is proposing an alternative schedule. The variance contains a legally enforceable compliance program whereby Del Monte will achieve final compliance with Rule 205(n)(1)(B) by December 31, 1984, utilizing a combination of the following measures:

- (1) Conversion of the sheet base coatings to coating with lower VOC content;
- (2) Replacement of end sealing compounds with high-solids compounds; and
- (3) Replacement of one of the sheet base coatings with an ultraviolet cured coating containing no VOC.

No later than June 19, 1983, and every third month thereafter, Del Monte is required to submit written reports to IEPA detailing all progress made in achieving compliance with Rule 205(n)(1)(B). These reports will include the quantity and the VOC content of all coatings employed during the reporting period, a description of the status of the reformulation program, and any other information which may reasonably be requested by IEPA and USEPA.

Del Monte states that it has worked closely with coating suppliers to achieve some VOC reductions. It is continuing to perform evaluation tests and is working closely with other members of the can manufacturing industry.

USEPA has determined that this variance is consistent with the March 10, 1982, compliance extension policy, and that the extension will not jeopardize maintenance of the ozone

national ambient air quality standards in Ogle County which is an ozone attainment area. Therefore, USEPA is approving this SIP revision.

Because USEPA considers today's action noncontroversial and routine, it is approving it today without prior proposal. The action will become effective on April 23, 1984. However, if the Agency receives notice by March 23, 1984 that someone wishes to submit critical comments, then USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

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

Under U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

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 April 23, 1984. This action may be challenged later in proceedings to enforce its requirements. (See Sec. 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.

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

This notice is issued under authority of Sections 110 and 172 of the CAA, as amended (42 U.S.C. 7410 and 7502).

Dated: February 3, 1984.
William D. Ruckelshaus,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart O—Illinois

1. Section 52.720 is amended by adding paragraph (c)(46) as follows.

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(46) On August 15, 1983, the Illinois Environmental Protection Agency submitted a May 19, 1983, Opinion and Order (PCB-82-147) of the Illinois Pollution Control Board (IPCB) granting Del Monte Corporation's Can Manufacturing Plant No. 115 located in Rochelle, Ogle County, Illinois a variance from the IPCB volatile organic compound emission standards under Rule 205(n)(1)(B)(i) and Rule 205(n)(1)(B)(vi) of Chapter 2: Air Pollution Regulations. The variances expires on December 31, 1984.

[FR Doc. 84-4839 Filed 2-21-84; 8:45 am]

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40 CFR Part 52

[AD - FRL-2529-4]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The EPA announces final rulemaking on a revision to the Illinois State Implementation Plan (SIP) for total suspended particulates (TSP). The revision consists of a change to Illinois Pollution Control Board (IPCB) Rule 203(g) in the form of the addition of Rule 203(g)(1)(E). EPA's action is based upon a revision which was submitted by the State pursuant to the requirements of Section 110 of the Clean Air Act (Act).

EFFECTIVE DATE: This final rulemaking becomes effective on March 23, 1984.

ADDRESSES: Copies of this revision to the Illinois SIP are available for inspection at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Randolph O. Cano, at (312) 886-6035 before visiting the Region V Office).

Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460
Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air Programs

Branch, Region V, Environmental Protection Agency, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: On May 28, 1982, (47 FR 23485), EPA proposed rulemaking on a proposed revision to the Illinois SIP for TSP in the form of an October 8, 1981, Final Order of the IPCB (R79-11). This order amends Rule 203(g)(1) which sets particulate emission standards and limitations for fuel combustion emission sources using solid fuel exclusively by adding the following subsection:

(E) Existing Coal-Fired Industrial Boilers Equipped with Flue Gas Desulfurization Systems

"Notwithstanding sub-paragraphs (A)-(D) of Rule 203(g)(1), no person shall cause or allow the emission of particulate matter into the atmosphere from existing coal-fired industrial boilers equipped with flue gas desulfurization systems to exceed 0.25 pound of particulate matter per million BTU of actual heat input in any one-hour period. Nothing in this rule shall be construed to prevent compliance with applicable regulations in Part IX of this Chapter."

This subsection (Rule 203(g)(1)(E)) provides a technology based TSP emission limitation for coal burning industrial boilers with flue gas desulfurization (FGD) systems. The IPCB has determined that a particulate matter emission limitation on industrial boilers of 0.25 lb/MMBTU is technologically feasible using either wet or dry (FGD) systems. The IPCB determined that allowing the 0.25 lb/MMBTU emission limit is economically reasonable and that requiring compliance with anything other than a technology-based emission limitation for simultaneous compliance with particulate matter and sulfur dioxide limitations would be economically unreasonable.

During the 30 day public comment period EPA received comments from two parties. The Agency's evaluation of them is summarized below.

A public interest group made the following comments:

Comment

The proposed rule is site specific in nature. Air quality impact analyses have only been prepared for four Caterpillar facilities which are equipped with FGD systems. No analyses have been performed for boilers which may be converted to coal or non-Caterpillar boilers equipped with FGD systems such as the Pfizer Chemical Company facility in East St. Louis.

The failure of the State to analyze the impact of the SIP revision in TSP

nonattainment areas is particularly disturbing. Until the State prepares a comprehensive ambient impact analysis, it is unlawful for ERA to approve a general rule. We remind EPA that the Act requires attainment of the health standards as "expeditiously as practicable," but not later than December 31, 1982.

While the State may have initiated studies of nontraditional sources of fugitive dust, EPA does not state in the Federal Register notice if the State has completed the studies and adopted regulations which will result in attainment of the air quality standards by the statutory deadline.

Response

A recent decision of the United States Court of Appeals for the Seventh Circuit *Sierra Club vs. Indiana-Kentucky Electric Corporation and Indiana and Michigan Electric Company* (Nos. 81-1822 and 81-2173) recently invalidated EPA's approval of the Illinois particulate regulations, deleting IPCB Rules 203(g)(1)(A) through (D) and requiring Rule 203(g)(1)(E) to stand on its own merits. EPA is today approving Rule 203(g)(1)(E) as RACT for the affected sources. It constitutes an improvement in the plan in that it fills, at least in part, the gap created in the plan by the Seventh Circuit decision. EPA is here making no determination of the adequacy of Rule 203(g)(1)(E) to assure attainment and maintenance of the TSP NAAQS.

EPA approved the overall Part D TSP SIP for Illinois because it applied reasonably available control technology (RACT) to the traditional sources of TSP, and contained a commitment to study non-traditional sources. EPA's soon to be issued sanctions policy and guidance will determine what must be done in areas which were unable to attain the national ambient air quality standards (NAAQS) by December 31, 1982, using a RACT plus studies SIP.

Comment

The proposed rule does not reflect RACT for industrial FGD systems. Caterpillar has stated that "significant portions" of the excess particulate emissions are generated by the FGD systems. The excess emissions have been attributed, in part, to the carryover of sulfuric acid mist (Caterpillar Exh. 2, p. 16). This phenomenon is only experienced in wet scrubbers operated on stoker-fired boiler burning high sulfur coal. Sulfuric acid mist carryover is not a problem in dry FGD systems. In a dry system, care must be taken to maintain high flue gas temperature rates in order

to avoid condensation of solids on the surfaces of the Fabric filter. Unlike wet FGD systems, the flue gas temperatures in dry FGD systems are adequate to prevent water vapor from condensing and combining with sulfur trioxide to form sulfuric acid. With boiler flue gas temperatures ranging between 350 degrees F. and 400 degrees F. the small quantity of water in the alkali is completely evaporated in a dry system.

We note that there are two dry scrubbers operating in Illinois. In addition to the Pfizer scrubber, Argonne National Laboratories has installed a dry scrubber. These systems have been designed to meet a 0.1 lbs/MMBTU standard.

Response

Whether or not dry FGD systems do not generate excess particulate emissions is not relevant to this rulemaking. The rulemaking is concerned with the determination of RACT for existing, wet FGD systems. The State is encouraged to take the effectiveness of dry FGD systems into account as part of its new source or PSD review of any subsequently constructed or modified boilers to use FGD Emissions Controls. However, the effectiveness of dry FGD systems has no bearing on the determination of RACT for existing wet FGD systems.

Comment

The proposed rule is not enforceable because it fails to specify a test method by which compliance is to be assessed. This omission is particularly significant since the test methods for particulate emission standards may be redefined by EPA.

We understand that EPA has been experimenting with a new test method for stoker-fired boilers at General Motor's Parma Plant. This new test procedure, Method 5B, is designed to exclude the measurement of sulfuric acid and sulfate emissions during stack tests by raising the temperature of the filter and probe on an EPA Method 5 sampling train from 248 F. to 350 F. Preliminary results indicated that particulate concentrations at the outlet of the scrubber are substantially reduced when measured by Method 5B.

If this new test procedure is adopted, Caterpillar will be able to reduce the efficiency of its scrubbers and emit additional particulates into the atmosphere. The only difference will be that the test method will not measure sulfuric acid and sulfate emissions generated by the scrubber. However, hi-volume samplers in the area will measure such emissions.

To overcome this problem and prevent Caterpillar from emitting more particulates into the atmosphere than projected in the modeling analysis we believe the State should specify the use of EPA Method 5 for determining compliance. This will ensure that all particulate emissions which contribute to ambient concentrations in the vicinity of Caterpillar's plants are controlled.

Response

EPA agrees that testing at higher temperatures would tend to reduce particulate concentrations as obtained by stack testing. It is EPA's position that testing at the higher temperatures indicated in the modification to Method 5 in Subpart D (as it applies to NSPS sources) would only be appropriate for NSPS sources. The appropriate test method for the sources covered by this rule (and the test method used to generate the data to support this rule revision) is Method 5.

The following comments were made by the legal representative of the Caterpillar Tractor Company:

Comment

Rule 203(g)(1) is not a valid part of the Illinois SIP. Caterpillar's submittal of the proposed revision to Rule 203(g)(1) of the IPCB Air Pollution Control Regulations was done to allow Caterpillar to come into unquestioned compliance.

Caterpillar has maintained throughout the State proceedings and maintains a similar position with respect to the proposed revision to the Illinois SIP that Rule 203(g)(1) is invalid for State purposes and accordingly does not exist as part of the Illinois SIP. In support of this position, Caterpillar incorporates its comment letter dated August 27, 1981.

Response

EPA's position is that the invalidation of Rule 203(g)(1) (A) through (D) requires that Rule 203(g)(1)(E) stand alone on its own merits. This view is supported by the most recent edition of the State of Illinois Air Pollution Control Regulations which indicates that Rule 203(g)(1)(E) was adopted after the Court challenge of Rule 203(g)(1) and is a valid rule.

Comment

Rule 203(g)(1)(E) is applicable to all of Caterpillar's coal-fired industrial boilers equipped with flue gas desulfurization systems.

The IPCB, on September 3, 1981, clarified that Rule 203(g)(1)(E) would apply to "all boilers which are in use or under construction on the effective date of this rule." Therefore, in addition to those Caterpillar boilers listed in the

proposed rule, Morton Boilers 1 and 2 and Mapleton Boilers 2, 3, 4 and 5 are sources covered by Rule 203(g)(1)(E).

Response

USEPA agrees that Morton Boilers 1 and 2 are covered by Rule 203(g)(1)(E). The State provided the following additional information to clarify whether or not Morton boilers 1 and 2 covered by Rule 203(g)(1)(E):

(1) The Morton Boilers are under 80 MMBTU and were previously subject to a limit of 0.25 lb/MMBTU.

(2) They were stack tested and found to be in compliance with this rule.

Mapleton boilers #2-5 are covered by this rulemaking action. EPA, however, has determined that these boilers are also subject to NSPS and these, more stringent, NSPS limitations control actual emissions from these boilers.

Comment

Not all of Caterpillar's boilers which are regulated by Rule 203(g)(1)(E) are located in non-attainment areas and therefore subject to RACT. The Mapleton Plant is located in Hollis Township in Peoria County. The Mossville Plant is located in Medina Township in Peoria County. The Morton Plant is located in Morton Township in Tazewell County. These three townships have been designated as primary total suspended particulate ("TSP") attainment areas 40 CFR Part 81.314. Therefore, RACT does not apply to these plants.

Response

These three townships are secondary TSP nonattainment areas. RACT is required in secondary nonattainment areas. And, as noted above, the Mapleton boilers are subject to NSPS.

In consideration of the public comments received in response to the May 28, 1982, Notice of Proposed Rulemaking (47 FR 23485), EPA has determined that Rule 203(g)(1)(E) is RACT and approves the incorporation of this rule into the Illinois SIP for TSP. This notice is not a determination that Illinois has met all Act requirements for TSP nonattainment areas. It should be noted that in portions of the May 28, 1982, Notice of Proposed Rulemaking (47 FR 23485), Rule 203(g), Rule 203(g)(1), and Rule 203(g)(1)(E) were incorrectly listed as Rule 203(q), Rule 203(q)(1), and Rule 203(q)(1)(E) due to a typographical error.

EPA is announcing final rulemaking today without re-proposal since these were obvious typographical errors and these rules were correctly cited

elsewhere in the notice of proposed rulemaking.

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 of Appeals for the appropriate circuit by April 23, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

This notice is issued under authority of Sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Dated: February 3, 1984.

William D. Ruckelshaus,
Administrator.

PART 52—[AMENDED]

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

1. Section 52.720 is amended by adding paragraph (c)(41) to read as follows:

§ 52.720 Identification of plan.

* * *

(c) * * *

(41) On December 7, 1981, the State submitted a October 8, 1981, Illinois Pollution Control Board Final Order (R79-11). This Final Order amends Rule 203(g)(1) by adding subsection (E).

[FR Doc. 84-4645 Filed 2-21-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300080A; PH-FRL 2529-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Synthetic Petroleum Wax

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for synthetic petroleum wax when used as an inert ingredient in pesticide formulations. This rule was requested by Petrolite Corp.

EFFECTIVE DATE: Effective on February 22, 1984.

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

FOR FURTHER INFORMATION CONTACT:

N. Bushan Mandava, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of October 19, 1983 (48 FR 48477), which announced that Petrolite Corp., Tulsa, OK 74112; had submitted a request that 40 CFR 180.1001(c) be amended by establishing an exemption from the requirement of a tolerance for synthetic petroleum wax as a coating agent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. Subsequent to the issuance of this notice of filing, Petrolite Corp. requested that the exemption be expanded to include the use of synthetic petroleum wax as a "binder" and a "carrier," as well as a coating agent, in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. The use of synthetic petroleum wax as a "binder" or "carrier" is generally confined to preharvest application. This addition to the final rule is of little, if any, toxicological concern, particularly in light of the published food additive uses of this biologically unavailable wax.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the

ingredient may or may not be chemically active.

Except for the request from Petrolite Corp., as noted above, there were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will 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 regulations 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. 406(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

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

Dated: February 7, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(c) is amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * *

(c) * * *

Inert ingredients	Limits	Uses
Synthetic petroleum wax, conforming to 21 CFR 172.888.		Binder, carrier, and coating agent.

* * *

[FR Doc. 84-4509 Filed 2-21-84; 8:45 am]

BILLING CODE 6560-50-M