

In evaluating the rule, EPA must also determine whether the section 182(b) requirement for RACT implementation by May 31, 1995 is met. The rule is written such that final compliance is required 2.5 years after the date of adoption. Since the rule was adopted in December 1991, final compliance is required by March 1994, thereby meeting the section 182(b) requirement of the CAA.

Although Rule 333, Control of Emissions from Reciprocating Internal Combustion Engines, will strengthen the SIP, the rule contains deficiencies related primarily to the lack of Federal enforceability. These deficiencies include inconsistent applicability cutoffs and exemptions, unenforceable provisions in definitions, inconsistent emission limit requirements, unenforceable alternative emission control plan provisions, and alternative compliance schedule provisions. A more detailed discussion of the sources controlled, the controls required, justification for why these controls represent RACT, and rule deficiencies can be found in the Technical Support Document (TSD) for Rule 333, dated November 1994.

Because of the above deficiencies, EPA cannot grant full approval of this rule under section 110(k)(3) and Part D. Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of SBCAPCD's submitted Rule 333 under sections 110(k)(3) and 301(a) of the CAA as meeting the requirements of section 110(a) and Part D.

At the same time, EPA is also proposing a limited disapproval of this rule because it contains deficiencies which must be corrected in order to fully meet the requirements of section 182(a)(2), section 182(b)(2), section 182(f), and Part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b)

unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the Federal Implementation Plan (FIP) requirement under section 110(c). It should be noted that the rule covered by this NPRM has been adopted by the SBCAPCD and is currently in effect in Santa Barbara county. EPA's final limited disapproval action will not prevent SBCAPCD or EPA from enforcing this rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Limited approvals under section 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it does not have a significant impact on affected small entities. Moreover, due to the nature of the Federal/State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S. Ct. 1976); 42 U.S.C. section 7410 (a)(2).

The OMB has exempted this regulatory action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: January 23, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95-2436 Filed 1-31-95; 8:45 am]

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40 CFR Part 52

[WV19-1-6210b, WV11-1-5888b; FRL-5139-4]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia: Title 45 Legislative Rules, Series 21, Regulation to Prevent and Control Air Pollution from Emission of Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the state implementation plan (SIP) revision submitted by the State of West Virginia on August 10, 1993. The revision consists of sections 1 to 9, 11, 12, 14 to 19, 21 to 29, 31, 36, 39, 41 to 48 and Appendix A to Title 45, Series 21 (45CSR21), "Regulations to Control Air Pollution from the Emission of Volatile Organic Compounds" (Series 21). These regulations are necessary to satisfy the Clean Air Act and to support attainment and maintenance of the National Ambient Air Quality Standard (NAAQS) for ozone in West Virginia. In the final rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. **DATES:** Comments must be submitted in writing by March 3, 1995.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division (3AT00), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA office listed above; and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 597-0545, at the EPA Regional Office address listed above.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: November 10, 1994.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 95-2400 Filed 1-31-95; 8:45 am]

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40 CFR Part 52

[MA39-1-67726; A-1-FRL-5136-8]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Massachusetts; Substitution of the California Low Emission Vehicle Program for the Clean Fuel Fleet Program (Opt Out)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts to fulfill the requirement that the Commonwealth submit either the Clean Fuel Fleet Program or a substitute program that meets the requirements of the Clean Air Act. The Commonwealth has submitted such a substitute measure for the required program. On November 15, 1993, the Commonwealth of Massachusetts formally submitted a revision to their SIP to require the sale of California certified low emitting vehicles in Massachusetts beginning

with model year 1995. Further, on May 11, 1994, the Commonwealth formally notified EPA of its decision to substitute Massachusetts' version of the California Low Emission Vehicle (MA LEV) Program for the Clean Fuel Fleet (CFF) Program as provided for in section 182(c)(4)(B) of the Clean Air Act (CAA). In the Final Rules Section of this **Federal Register**, EPA is approving the Commonwealth's SIP revision, as a direct final rule without prior proposal. A detailed rationale for the action is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be submitted by March 3, 1995.

ADDRESSES: Comments may be mailed to Linda M. Murphy, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Damien F. Houlihan, (617) 565-3266.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of this **Federal Register**.

Dated: December 19, 1994.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 95-2492 Filed 1-31-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 180

[OPP-300376; FRL-4928-4]

RIN 2070-AC18

Isopropyl Myristate; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that isopropyl myristate be exempted from the requirement of a tolerance when used as a solvent in pesticide formulations. Technology Sciences Group, Inc., on behalf of Sumitomo Chemical Co., Ltd., requested this proposed rule.

DATES: Comments, identified by the document control number, [OPP-300376], must be received on or before March 3, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person deliver comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by the EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia M. Acierro, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, Arlington, VA 22202, (703)-308-8375.

SUPPLEMENTARY INFORMATION: Technology Sciences Group, Inc., Pesticide Division, Steuart Street Tower 2700, One Market Plaza, San Francisco, CA 94105-1475, submitted pesticide petition (PP) 3E04245 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(c) and (e) by establishing exemptions from the requirement of a tolerance for isopropyl myristate when used as a solvent in pesticide formulations applied to growing crops, raw agricultural commodities, and animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, 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 alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and