

(B) Utah Administrative Code rule R307-101-2, as adopted by the Utah Air Quality Board on September 7, 2005, effective on September 8, 2005. This incorporation by reference extends only to the definition of the Clearing Index and excludes any other provisions that R307-101-2 incorporates by reference.

[FR Doc. 06-7954 Filed 9-21-06; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2006-0543; FRL-8217-8]

### Approval and Promulgation of Air Quality Implementation Plans; Wisconsin

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Wisconsin State Implementation Plan (SIP) for ozone. In these revisions, the State has incorporated changes EPA made to its definition of volatile organic compound (VOC) and its VOC control requirements for yeast manufacturing. As a result of EPA's approval, five chemical compounds will no longer be considered VOCs. The changes to VOC control requirements match the EPA maximum achievable control technology (MACT) limits for yeast manufacturers.

**DATES:** This direct final rule will be effective November 21, 2006, unless EPA receives adverse comments by October 23, 2006. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the *Federal Register* informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0543, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.

- *E-mail*: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

- *Fax*: (312) 886-5824.

- *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

- *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional

Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2006-0543. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information, the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you

telephone Matt Rau, Environmental Engineer, at (312) 886-6524 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, [rau.matthew@epa.gov](mailto:rau.matthew@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Should I Consider as I Prepare My Comments for EPA?
- II. What Is EPA Approving?
- III. What Is the Background for This Action?
- IV. What Is EPA's Analysis of the State Submission?
- V. What Are the Environmental Effects of This Action?
- VI. What Action Is EPA Taking Today?
- VII. Statutory and Executive Order Reviews.

#### I. What Should I Consider as I Prepare My Comments for EPA?

**A. Submitting CBI.** Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

**B. Tips for Preparing Your Comments.** When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

## II. What Is EPA Approving?

EPA is approving revisions to Wisconsin's VOC definitions for five compounds and VOC control requirements for yeast manufacturing facilities. Wisconsin added NR 400.02(162)(a)45 to 48, which excludes the four VOC compounds from the definition of VOCs: 1,1,1,2,2,3,3,3-heptafluoro-3-methoxy-propane; 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane; 1,1,1,2,3,3,3,3-heptafluoropropane; and methyl formate (HCOOCH<sub>3</sub>). Sources of the compounds listed under NR 400.02(162)(a) do not have to follow any of these VOC requirements when using the compounds.

In addition, Wisconsin has added NR 400.02(162)(b), which states that t-butyl acetate will no longer be subject to VOC emission or content limits. Sources using t-butyl acetate will still need to follow VOC recordkeeping, emission reporting, and inventory requirements.

Wisconsin has also revised its VOC control requirements for yeast manufacturing facilities. This includes the addition of NR 424.05(2)(c), which creates the requirement that sources must comply with the emissions limits for at least 98 percent of all fermentation batches over a rolling 12 month period.

## III. What Is the Background for This Action?

Wisconsin's requested revisions to the VOC definitions adopt changes that EPA made on November 29, 2004. In the first action (69 FR 69298), EPA added four chemicals to the list of excluded compounds at 40 CFR 51.100(s)(1), on the basis that these compounds make a negligible contribution to tropospheric ozone formation. These are: 1,1,1,2,2,3,3,3-heptafluoro-3-methoxy-propane; 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane; 1,1,1,2,3,3,3,3-heptafluoropropane; and methyl formate.

In the second action (69 FR 69304), EPA modified the definition of VOC at 40 CFR 51.100(s)(5) to exclude t-butyl acetate as a VOC for purposes of VOC emission limitations or VOC content requirements. While EPA determined that t-butyl acetate has a negligible contribution to tropospheric ozone formation, it also concluded that the compound should still be subject to all

recordkeeping, emissions reporting, modeling, and inventory VOC requirements.

Wisconsin also requested VOC control requirement revisions to match yeast manufacturing limits. The May 21, 2001 national emission standards for hazardous air pollutants (NESHAP) for nutritional yeast manufacturing (66 FR 27876) set limits on VOC emissions. The yeast NESHAP limits VOC emissions as a surrogate for emissions of acetaldehyde, a hazardous air pollutant that is also a VOC. The limits affect both VOC concentration limits and a percent-of-batches minimum. At least 98 percent of the batches on a 12-month rolling average must meet the VOC concentration limit.

## IV. What Is EPA's Analysis of the State Submission?

The changes to Wisconsin's definition of VOC parallel the revisions to 40 CFR 51.100(s)(1), the de-listing of four compounds formerly considered VOCs and to 40 CFR 51.100(s)(5), the modification of the definition of VOC concerning t-butyl acetate.

EPA revised the VOC emission limits for nutritional yeast manufacturing facilities in 40 CFR 63 subpart CCCC (63.2130–2192). Wisconsin revised and added sections to its rules that make the same revisions. Emission limit compliance is required for at least 98 percent of batches over a rolling 12-month period.

The requested revisions match changes made to federal regulations. Therefore, the modifications are approvable as revisions to Wisconsin's SIP.

## V. What Are the Environmental Effects of This Action?

Volatile organic compounds are precursors to ozone formation. Complex photochemical reactions involving VOCs form tropospheric ozone.

Ozone decreases lung function, causing chest pain and coughing. It can aggravate asthma, reduce lung capacity, and increase risk of respiratory diseases like pneumonia and bronchitis. Children playing outside and healthy adults who work or exercise outside also may be harmed by elevated ozone levels. Ozone also reduces vegetation growth in economically important agricultural crops and wild plants.

EPA has determined that the five compounds make a negligible contribution to ozone formation. Thus, the compounds are no longer considered to be VOCs and the exemptions will not harm the air quality. In fact if sources switch from a VOC compound to one of the

compounds being removed from the VOC list, ozone formation may be reduced.

Exposure to HAPs at sufficient concentration and duration may increase the risk of cancer and other serious health effects. These health effects include damage to the immune system and neurological, reproductive, developmental, and respiratory health problems. Drinking water can be contaminated by HAPs. In addition, some HAPs can enter the food chain through the exposure of crops and animals. The VOC limits placed on yeast manufacturing facilities will limit HAP emissions.

## VI. What Action Is EPA Taking Today?

EPA is approving, through direct final rulemaking, revisions to the Wisconsin ozone regulations. As a result of EPA's approval of Wisconsin's SIP submission, four compounds are no longer considered to be VOCs and a fifth compound is not subject to VOC content and emission limits but will still be subject to other requirements. The VOC control requirements for yeast manufacturing facilities were also revised.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective November 21, 2006 without further notice unless we receive relevant adverse written comments by October 23, 2006. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective November 21, 2006.

## VII. Statutory and Executive Order Reviews

### *Executive Order 12866; Regulatory Planning and Review*

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.

*Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a “significant regulatory action” under Executive Order 12866 or a “significant energy action,” 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).

*Regulatory Flexibility Act*

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.*).

*Unfunded Mandates Reform Act*

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).

*Executive Order 13175 Consultation and Coordination With Indian Tribal Governments*

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 (59 FR 22951, November 9, 2000).

*Executive Order 13132 Federalism*

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 Clean Air Act.

*Executive Order 13045 Protection of Children From Environmental Health and Safety Risks*

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.

*National Technology Transfer Advancement Act*

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 Clean Air Act. 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.

*Paperwork Reduction Act*

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.*).

*Congressional Review Act*

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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 21, 2006. 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, Incorporation by reference, Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: August 23, 2006.

**Jerri-Anne Garl,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the 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 YY—Wisconsin**

■ 2. Section 52.2570 is amended by adding paragraph (c)(114) to read as follows:

**§ 52.2570 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(114) On April 11, 2006, Wisconsin submitted revised regulations that match 40 CFR 51.100(s)(1), as amended at 69 FR 69298. As a result, the compounds, 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane, 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane, 1,1,1,2,3,3,3-heptafluoropropane, and methyl formate, are added to the list of “nonphotochemically reactive hydrocarbons” or “negligibly photochemically reactive compounds” in NR 400.02(162)(a)45. to 48. Companies producing or using the four compounds will no longer need to follow the VOC rules for these compounds. Section NR 400.02(162)(b) was added for the compound t-butyl acetate. It is not considered a VOC for emission limits and content requirements. T-butyl acetate will still be considered a VOC for the recordkeeping, emissions reporting, and inventory requirements. Wisconsin also added and modified sections of NR 424.05, its VOC control requirements for yeast manufacturing facilities. Wisconsin’s requirements are the same as the federal requirements in the national emission standards for hazardous air pollutants for nutritional yeast manufacturing.

(i) Incorporation by reference.

(A) Wisconsin Administrative Code § NR 400: Air Pollution Control Definitions, Section 2: Definitions, Subsection 162: "Volatile organic compound," and § NR 424: Control of Organic Compound Emissions from Process Lines, Section 5: Yeast Manufacturing, Subsection 2: Emission Limitations, and Subsection 5: Test Methods and Procedures. The regulations were effective on January 1, 2006.

[FR Doc. 06-8113 Filed 9-21-06; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2006-0773; FRL-8093-3]

### Fenamidone; Pesticide Tolerance for Emergency Exemption

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for residues of fenamidone in or on carrots. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on carrots. This regulation establishes a maximum permissible level for residues of fenamidone in this food commodity. The tolerance expires and is revoked on December 31, 2009.

**DATES:** This regulation is effective September 22, 2006. Objections and requests for hearings must be received on or before November 21, 2006, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2006-0773. All documents in the docket are listed on the [regulations.gov](http://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 either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory

Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

#### FOR FURTHER INFORMATION CONTACT:

Andrea Conrath, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9356; e-mail address: [conrath.andrea@epa.gov](mailto:conrath.andrea@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 entities may include, but are not limited to:

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

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 this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

###### C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCFA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. 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-2006-0773 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 21, 2006.

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 that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2006-0773, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket 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 (FFDCFA), 21 U.S.C. 346a, is establishing a time-limited tolerance for residues of the fungicide fenamidone, (4H-imidazol-4-one, 3,5-dihydro-5-methyl-2-(methylthio)-5-phenyl-3-(phenylamino), (S)-), in or on carrot at 0.20 parts per million (ppm). This tolerance expires and is revoked on