

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R04-OAR-2010-0150-201009(a); FRL-9138-9]

**Approval and Promulgation of Implementation Plans: Tennessee; Visibility Impairment Prevention for Federal Class I Areas; Removal of Federally Promulgated Provisions****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to rescind the Federally promulgated provisions regarding visibility in 40 CFR 52.2234 of the Tennessee State Implementation Plan (SIP). EPA approved Tennessee's visibility rules addressing new source review (NSR) on July 18, 1996, and a plan addressing monitoring and reporting of visibility on July 2, 1997. EPA's approval of these rules neglected to remove the previous Federally promulgated provisions from the Federal Implementation Plan (FIP) contained in 40 CFR 52.2234. EPA is correcting this omission in this rulemaking. This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

**DATES:** This rule is effective on June 21, 2010 without further notice, unless EPA receives relevant adverse comment by May 21, 2010. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2010-0150, by one of the following methods:

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

2. *E-mail*: [benjamin.lynorae@epa.gov](mailto:benjamin.lynorae@epa.gov).

3. *Fax*: (404) 562-9019.

4. *Mail*: "EPA-R04-OAR-2010-0150," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. *Hand Delivery or Courier*: Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the

Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. "EPA-R04-OAR-2010-0150." EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means 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 *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 information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

*Docket:* All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, 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 electronically in *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA

requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Ms. Ward may be reached by phone at (404) 562-9140 or by electronic mail address [ward.nacosta@epa.gov](mailto:ward.nacosta@epa.gov).

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**I. Background for Today's Action**

On February 9, 1993, and December 19, 1994, the State of Tennessee submitted provisions constituting its plan to address visibility impairment in Federal Class I areas. EPA approved these submittals on July 2, 1997 (62 FR 35681). On January 17, 1995, the State of Tennessee also submitted rules for addressing visibility in its NSR program. EPA fully approved this submittal on July 18, 1996 (61 FR 35387).

The aforementioned submittals provide the necessary revisions to Tennessee's plan for visibility impairment prevention for Class I areas, and satisfied EPA's requirements as set forth in 40 CFR 51.300 through 51.304 and 51.306. These visibility provisions were submitted to EPA in order to satisfy the second part of the Settlement Agreement with the Environmental Defense Fund, *et al.*, *Environmental Defense Fund v. Thomas*, number C826850 RPA, and are described at 49 FR 20647 on May 16, 1984. The schedule for submittal and promulgation of these visibility provisions was renegotiated and subsequently extended by a court order on September 9, 1986.

The second part of the Settlement Agreement required EPA to propose and promulgate Federal Visibility SIPs, addressing the general visibility plan provisions including implementation control strategies (40 CFR 51.302), integral vista protection (40 CFR 51.302 through 51.307), and long-term strategies (40 CFR 51.306) for those States whose SIPs EPA had determined to be inadequate with respect to the above provisions (*see* January 23, 1986,

notice of deficiency (51 FR 3046) and March 12, 1987, notice proposing FIPs for deficient State SIPs (52 FR 7803)). However, as provided in the renegotiated Settlement Agreement, a State could avoid the promulgation of said provisions if they submitted a visibility SIP by August 31, 1987. The State of Tennessee did not submit a plan by August 31, 1987, and as a result EPA promulgated Part 2 provisions for Tennessee in a FIP to satisfy the Settlement Agreement on November 24, 1987.

Subsequently, the State of Tennessee provided SIP revisions on February 9, 1993, December 19, 1994, and January 17, 1995, with the intent to replace the EPA-promulgated provisions (or FIP) that was put in place. The EPA actions on July 18, 1996 and July 2, 1997, fully approved these Tennessee SIP revisions but inadvertently did not remove the Federally-promulgated provisions in 40 CFR 52.2234. Today's action corrects that oversight.

## II. Final Action

EPA is taking direct final action to correct an omission related to the visibility requirements for Tennessee. Specifically, EPA is removing the previous Federally promulgated provisions in 40 CFR 52.2234 for visibility for Tennessee because the State later submitted, and EPA approved, revisions covering visibility requirements for Tennessee. EPA is approving the aforementioned changes to the Tennessee SIP because they are consistent with the CAA and Agency requirements. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 21, 2010 without further notice unless the Agency receives adverse comments by May 21, 2010.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 21, 2010

and no further action will be taken on the proposed rule.

## III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
  - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - 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);
  - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
  - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country

located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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 action 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 June 21, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Intergovernmental relations, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds, Sulfur dioxide.

Dated: April 1, 2010.

**Beverly H. Banister,**

*Acting Regional Administrator, Region 4.*

■ 40 CFR part 52 is amended as follows:

### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

## Subpart RR—Tennessee

### § 52.2234 [Removed and Reserved]

■ 2. Section 52.2234 is removed and reserved.

[FR Doc. 2010–8935 Filed 4–20–10; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA–HQ–OPP–2008–0888; FRL–8436–3]

### Polyglyceryl Phthalate Ester of Coconut Oil Fatty Acids; Exemption from the Requirement of a Tolerance; Technical Correction

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** EPA issued a final rule in the *Federal Register* of July 8, 2009, concerning polyglyceryl phthalate ester of coconut oil fatty acids; exemption from the requirement of a tolerance. This document is being issued to correct the inert ingredient name and CAS numbers.

**DATES:** This final rule is effective April 21, 2010.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0888. All documents in the docket are listed in the docket index available in <http://www.regulations.gov>. 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 in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

**FOR FURTHER INFORMATION CONTACT:** Kerry Leifer, Registration Division

(7205P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460–0001; telephone number: (703) 308–8811; e-mail address: [leifer,kerry@epa.gov](mailto:leifer,kerry@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under the **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to accessing electronically available documents 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>.

##### II. What Does this Correction Do?

In the *Federal Register* of July 8, 2009, (74 FR 32456), EPA’s Office of Pesticide Programs issued an exemption from the requirement of a tolerance for “polyglyceryl phthalate ester of coconut oil fatty acids” pursuant to a petition by the Joint Inserts Task Force, Cluster Support Team 23. The petition requested that an exemption from the requirement of a tolerance for residues of polyglyceryl phthalate ester of coconut oil fatty acids, including fatty acid coco polymers with glyceryl and phthalic anhydride (CAS No. 67746–02–5) and coconut oil polymer with glyceryl and phthalic anhydride (CAS No. 66070–87–9). This technical correction corrects the name of the inert ingredient and the CAS numbers.

##### III. Why is this Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today’s technical correction final without prior proposal and opportunity for comment, because EPA

is merely correcting language that was inadvertently mistyped in the previously published final rule. The correct inert ingredient names and CAS Numbers were present in the Supplementary Information Section of the July 8, 2009 final rule but were mistyped in the tolerance exemption table. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

##### IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

The statutory and Executive order reviews were included in the July 8, 2009 final rule.

##### V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report 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 this final rule in the *Federal Register*. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

##### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 9, 2010.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR part 180 corrected as follows:

#### PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a, and 371.

■ 2. In the table to § 180.910, the entry for “Polyglyceryl phthalate ester of coconut oil fatty acids (CAS Reg. Nos. 67746–6070–9)” is revised to read as follows:

**§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.**

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