

prohibited from entering the designated race areas unless authorized by the designated on-scene Patrol Commander. Spectator craft may remain in designated spectator areas but must follow the directions of the designated on-scene Patrol Commander. The event sponsor may also function as the designated on-scene Patrol Commander. Spectator craft entering, exiting or moving within the spectator area must operate at speeds which will create a minimum wake.

**Emergency Signaling:** A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the discretion of the designated on-scene Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the patrol vessel. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

This notice is issued under authority of 33 CFR 100.1308 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners. If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, he may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: 9/12/11.

**S.J. Ferguson,**

*Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. 2011-24728 Filed 9-27-11; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2010-1024; FRL-9471-9]

### Approval and Promulgation of Air Quality Implementation Plans; Indiana; Prevention of Significant Deterioration Greenhouse Gas Tailoring Rule

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving revisions to the Indiana State Implementation Plan (SIP), submitted by the Indiana Department of Environmental Management (IDEM) to EPA on July 7, 2011. The SIP revision modifies Indiana's Prevention of Significant Deterioration (PSD) program to establish appropriate emission thresholds for

determining which new stationary sources and modification projects become subject to Indiana's PSD permitting requirements for their greenhouse gas (GHG) emissions. EPA proposed approval of these regulatory revisions on June 17, 2011, and received no comments. This action affects major stationary sources in Indiana that have GHG emissions above the thresholds established in the PSD regulations.

**DATES:** This final rule is effective on October 28, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2010-1024. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, 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 electronically through <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 Federal holidays. We recommend that you telephone Sam Portanova, Environmental Engineer, at (312) 886-3189 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Sam Portanova, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3189, [portanova.sam@epa.gov](mailto:portanova.sam@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 is the background for this action?
- II. What comments did EPA receive?
- III. What is the effect of this action?
- IV. What action is EPA taking?
- V. Statutory and Executive Order Reviews

#### I. What is the background for this action?

EPA has recently undertaken a series of actions pertaining to the regulation of GHGs that, although for the most part distinct from one another, establish the overall framework for today's final action on the Indiana SIP. Four of these

actions include, as they are commonly called, the "Endangerment Finding" and "Cause or Contribute Finding," which EPA issued in a single final action,<sup>1</sup> the "Johnson Memo Reconsideration,"<sup>2</sup> the "Light-Duty Vehicle Rule,"<sup>3</sup> and the "Tailoring Rule."<sup>4</sup> Taken together and in conjunction with the Clean Air Act (CAA), these actions established regulatory requirements for GHGs emitted from new motor vehicles and new motor vehicle engines; determined that such regulations, when they took effect on January 2, 2011, subjected GHGs emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis.

Recognizing that some states had approved SIP PSD programs that do apply PSD to GHGs, but that do so for sources that emit as little as 100 or 250 tons per year of GHG, and that do not limit PSD applicability to GHGs to the higher thresholds in the Tailoring Rule, EPA published a final rule on December 30, 2010, narrowing its previous approval of PSD programs as applicable to GHG-emitting sources in SIPs for 24 states, including Indiana (PSD Narrowing Rule).<sup>5</sup> In the PSD Narrowing Rule, EPA withdrew its approval of Indiana's SIP, among other SIPs, to the extent that SIP applies PSD permitting requirements to GHG emissions from sources emitting at levels below those set in the Tailoring Rule. Subsequently, Indiana's approved SIP provided the state with authority to regulate GHGs, but only at and above the Tailoring Rule thresholds; and Federally required new and modified sources to receive a PSD permit based on GHG emissions only if they emitted at or above the Tailoring Rule thresholds.

On December 3, 2010, in response to the Tailoring Rule and earlier GHG-related EPA rules, IDEM submitted a draft revision to EPA for parallel processing approval into the Indiana SIP to establish appropriate emission thresholds for determining which new

<sup>1</sup> "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act." 74 FR 66496 (December 15, 2009).

<sup>2</sup> "Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs." 75 FR 17004 (April 2, 2010).

<sup>3</sup> "Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule." 75 FR 25324 (May 7, 2010).

<sup>4</sup> "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule." 75 FR 31514 (June 3, 2010).

<sup>5</sup> "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans." 75 FR 82536 (December 30, 2010).

or modified stationary sources become subject to PSD permitting requirements for GHG emissions. Subsequently, on June 17, 2011, EPA published a proposed approval of this parallel processing SIP submittal. See 76 FR 35380. Specifically, EPA proposed to approve revisions to 326 IAC 2-2-1 and 326 IAC 2-2-4 of Indiana's PSD rules to add GHG permitting requirements. Detailed background information and EPA's rationale for the proposed approval are provided in EPA's June 17, 2011, **Federal Register** action.

EPA's June 17, 2011, proposed approval was contingent upon Indiana providing a final SIP revision that was substantively the same as the December 3, 2010, submittal for parallel processing. Indiana provided its final SIP submittal on July 7, 2011, which included rules adopted final by IDEM on March 16, 2011. There were no differences between the December 3, 2010, draft SIP revision, and the July 7, 2011, final SIP revision.

## II. What comments did EPA receive?

The public comment period on the proposed approval of Indiana's SIP revision ended on July 18, 2011. EPA did not receive any comments on the proposed approval of this SIP revision.

## III. What is the effect of this action?

Final approval of Indiana's July 7, 2011, SIP revision incorporates changes to 326 IAC 2-2-1 and 326 IAC 2-2-4 of the state's rules to establish the GHG emission thresholds for PSD applicability set forth in EPA's Tailoring Rule, confirming that smaller GHG sources emitting less than these thresholds will not be subject to PSD permitting requirements under the approved Indiana SIP. EPA has determined that the SIP revision approved by today's action is consistent with EPA's regulations, including the Tailoring Rule. Furthermore, EPA has determined that this SIP revision is consistent with section 110 of the CAA. Pursuant to section 110 of the CAA, EPA approves this revision into Indiana's SIP.

As result of today's action approving Indiana's incorporation of the appropriate GHG permitting thresholds into its SIP, paragraph (k) in 40 CFR 52.773, as included in EPA's PSD Narrowing Rule, is no longer necessary.<sup>6</sup> Thus, today's action also amends 40 CFR 52.773 to remove this unnecessary regulatory language.

<sup>6</sup> 40 CFR 52.773(k) codifies EPA's limiting its approval of Indiana's PSD SIP to not cover the applicability of PSD to GHG-emitting sources below the Tailoring Rule thresholds.

## IV. What action is EPA taking?

EPA is approving the revisions to 326 IAC 2-2-1 and 326 IAC 2-2-4 of Indiana's PSD regulations which were submitted by IDEM on July 7, 2011. These revisions establish appropriate emissions thresholds for determining PSD applicability with respect to new or modified GHG-emitting stationary sources in accordance with EPA's June 3, 2010, Tailoring Rule.

With this approval, EPA also amends 40 CFR 52.773 to remove paragraph (k).

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. 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 CAA; 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 28, 2011. 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. 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, and Reporting and recordkeeping requirements.

Dated: September 15, 2011.

**Susan Hedman,**

*Regional Administrator, Region 5.*

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 P—Indiana**

■ 2. In § 52.770 the table in paragraph (c) is amended by revising the entries

for “2–2–1” and “2–2–4” to read as follows:

**§ 52.770 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED INDIANA REGULATIONS**

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
2–2–1	Definitions	03/16/2011	9/28/2011, [Insert page number where the document begins].	
2–2–4	Air quality analysis; requirements	03/16/2011	9/28/2011, [Insert page number where the document begins].	

\* \* \* \* \*

■ 3. In § 52.773, paragraph (k) is removed.  
[FR Doc. 2011–24790 Filed 9–27–11; 8:45 am]  
**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA–HQ–OPP–2010–0087; FRL–8889–8]

**Isaria fumosorosea Apopka Strain 97; Exemption From the Requirement of a Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of *Isaria fumosorosea* (formerly known as *Paecilomyces fumosoroseus*) Apopka strain 97 in or on all food commodities when applied as an insecticide or miticide and used in accordance with good agricultural practices. Certis USA, LLC, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA) requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Isaria fumosorosea* Apopka strain 97 under the FFDCA.

**DATES:** This regulation is effective September 28, 2011. Objections and requests for hearings must be received on or before November 28, 2011, 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–2010–0087. All documents in the docket are listed in the docket index available at <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 Office of Pesticide Programs (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:** Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8097; e-mail address: [bacchus.shanaz@epa.gov](mailto:bacchus.shanaz@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 get electronic access to other related information?**

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office’s e-CFR site at [http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl). To access the harmonized test guidelines referenced in this document electronically, please go to <http://www.epa.gov/ocspp> and select “Test Methods and Guidelines.”

**C. How can I file an objection or hearing request?**

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation