

unloading in the future through use of add-on controls.

II. Is Coal Unloading Part of the Source That Belongs to the Source Category for Coal Preparation Plants?

Whether a facility has been regulated as an affected facility does not determine whether fugitive emissions from that facility are to be counted in determining whether the source as a whole is major under Title V. Rather, if the facility is part of a source that falls within a source category which has been listed pursuant to section 302(j) of the Act, then all fugitive emissions of any regulated air pollutant from that facility are to be included in determining whether that source is a major stationary source under section 302 or part D of Title I of the Act and accordingly required to obtain a Title V permit.

Section 302(j) of the Act provides that EPA may determine whether fugitive emissions from a "stationary source" count towards the major source threshold. For purposes of the 302(j) rulemaking, the term "stationary source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Act." 40 CFR 51.166(b)(5) and 52.21(b)(5). Building, structure, facility, or installation means "all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel." 40 CFR 51.166(b)(6) and 52.21(b)(6).

EPA has determined by rule that fugitive emissions count towards the major source threshold for all sources that belong to the source category regulated by NSPS Subpart Y. 49 FR 43202, 43209 (October 26, 1984). Under the definition of source used in the 302(j) rulemaking, all types of coal unloading at coal preparation plants are covered. Coal unloading normally belongs to the same industrial grouping as other activities at coal preparation plants, is located on contiguous or adjacent property, and is under common control. Therefore, EPA concludes that all coal unloading at a coal preparation plant is part of the source belonging to the source category for coal preparation plants.

Coal unloading of all types also fits within the NSPS source category. A survey of EPA Regional Offices indicated that the majority of the Regions treat coal unloading at a coal preparation plant as being within the NSPS source category. Coal unloading

that is regulated under Subpart Y is clearly within the source category. Common sense would dictate that coal unloading for temporary storage be treated no differently. It is performed at the same facility and is an integral part of the operations at that facility. The latter type of coal unloading is simply an optional first step in the coal preparation process.

EPA concludes that fugitive emissions from coal unloading must be counted in determining whether a coal preparation plant is a major source subject to Title V permitting requirements.

Dated: September 16, 1998.

Kenneth A. Gigliello,

Acting Director, Manufacturing, Energy and Transportation Division, Office of Compliance.

[FR Doc. 98-26632 Filed 10-2-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL-6171-9]

Protection of Stratospheric Ozone: Reconsideration of Petition Criteria and Incorporation of Montreal Protocol Decisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial withdrawal of direct final rule.

SUMMARY: With this action, due to receipt of adverse comments, EPA is withdrawing thirteen of the provision included in the direct final rule published in the **Federal Register** on August 4, 1998. EPA published both the direct final rule (63 FR41625) and a notice of proposed rulemaking (63 FR 41652) on August 4, 1998, to reflect changes in U.S. obligations under the Montreal Protocol on Substance that Deplete the Ozone Layer (Protocol) due to recent decision by signatory countries to this international agreement, to respond to a petition regarding the requirement in the petition process for imports of used class I controlled substances that a person must certify knowledge of tax liability, and to ease the burden on affected companies while continuing to ensure compliance with Title VI of the CAA and meet U.S. obligation under the Protocol.

DATES: The following provisions of the direct final rule published at 63 FR 41626 (August 4, 1998) are withdrawn, as of October 5, 1998.

(1) The addition to 40 CFR 82.3 of the definition for "individual shipment,"

(2) The addition to 40 CFR 82.3 of the definition for "national security allowances,"

(3) The addition to 40 CFR 82.3 of the definition for "non-objection notice,"

(4) The addition to 40 CFR 82.3 of the definition for "source facility,"

(5) The revision of newly designated 40 CFR 82.4(j),

(6) The addition of paragraph (t)(3) in newly designated 40 CFR 80.4(t),

(7) The addition of paragraph (u)(3) in newly designated 40 CFR 80.4(u),

(8) The addition of paragraph (a)(5) in revised 40 CFR 82.9(a),

(9) The addition of 40 CFR 82.9(g),

(10) The addition of 40 CFR 82.12(a)(3),

(11) The addition of 40 CFR 82.13(f)(2)(xvii), (g)(1)(xvii), and (g)(4)(xv) and the revision of newly designated 40 CFR 82.13(f)(3)(xiii),

(12) The revision of 40 CFR 82.13(g)(2) and (3), and

(13) The revision of 40 CFR 82.13(u).

ADDRESSES: Comments and materials supporting this rulemaking are contained in Public Docket No. A-92-13 at: U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460. The Public docket is located in Room M-1500, Waterside Mall (Ground Floor). Dockets may be inspected from 8 a.m. until 12 noon, and from 1:30 p.m. until 3 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT:

Tom Land, U.S. Environmental Protection Agency, Stratospheric Protection Division, Office of Atmospheric Programs, 6205J, 401 M Street, SW., Washington, DC, 20460, (202)-564-9185.

SUPPLEMENTARY INFORMATION: As stated in the **Federal Register** document, if adverse comments were received by September 3, 1998 on one or more of the provisions, a timely notice of withdrawal would be published in the **Federal Register**. EPA received adverse comments on the following thirteen provisions: (1) the addition to 40 CFR 82.3 of the definition for "individual shipment," (2) the addition to 40 CFR 82.3 of the definition for "national security allowances," (3) the addition to 40 CFR 82.3 of the definition for "non-objection notice," (4) the addition to 40 CFR 82.3 of the definition for "source facility," (5) the revision to newly designated 40 CFR 82.4(j) prohibiting the import of used class I controlled substance without a non-objection notice, (6) the addition to newly designated 40 CFR 82.4(t) of paragraph (t)(3), under which EPA would allocate

essential-use allowances by means of a confidential letter and would subsequently publish a notice of the allocation in the **Federal Register**, (7) the addition of 40 CFR 82.4(u)(3) for an exemption process for national security interests for HCFC-141b, (8) the addition of paragraph (a)(5) in revised 40 CFR 82.9(a) for granting 15 percent of baseline production allowances as Article 5 allowances for class I, Group VI controlled substances, (9) the addition of 40 CFR 82.9(g) establishing the petition process for national security allowances, (10) the addition of 40 CFR 82.12(a)(3) for transfers of essential-use allowances for metered-dose inhalers in emergency situations, (11) the addition of 40 CFR 82.13(f)(2)(xvii), 40 CFR 82.13(g)(1)(xvii), and 40 CFR 82.13(g)(4)(xv) and the revision of newly designated 40 CFR 82.13(b)(3)(xiii) for the certification of purchases of controlled substances that will be used as a process agent, (12) the revision of paragraphs in 40 CFR 82.13(g)(2) and 40 CFR 82.13(g)(3) for petitioning to import used class I controlled substances, and (13) the revision to 40 CFR 82.13(u) for the reporting by holders of essential-use holders. EPA will address the comments received in a subsequent final action on these thirteen provisions in the near future and issue a final rule based on the parallel proposal also published on August 4, 1998. As stated in the parallel proposal, EPA will not institute a second comment period on this action. The thirty-eight amendments that did not receive adverse comments will become effective on October 5, 1998, as provided in the August 4, 1998 direct final rule. EPA will make the text of the thirty-eight amendments that did not receive adverse comments available at the following website address: www.epa.gov/ozone/title6/phaseout/.

List of Subjects in 40 CFR Part 82

Environmental protection, Administration practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Hydrochlorofluorocarbons, Imports, Ozone layer, Reporting and recordkeeping requirements.

Dated: September 29, 1998.

Robert Perciasepe,

Assistant Administrator for the Office of Air and Radiation.

[FR Doc. 98-26456 Filed 10-2-98; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300728; FRL-6032-2]

RIN 2070-AB78

Alder Bark; 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 alder bark when used as an inert ingredient (seed germination stimulator) in pesticide formulations applied to growing crops. Platte Chemical Company requested this tolerance exemption under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Pub. L. 104-170).

DATES: This regulation is effective October 5, 1998. Objections and requests for hearings must be received by EPA on or before November 4, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP-300728], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300728], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of

objections and hearing requests in electronic form must be identified by the docket control number [OPP-300728]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Indira Gairola, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. #707G, Crystal Mall #2, 1921 Crystal Drive, Arlington, VA, 22202. Telephone No. (703)-308-8371, e-mail: gairola.indira@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 29, 1998 (63 FR 23438)(FRL-5783-4) EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a announcing the filing of a pesticide petition (PP) 6E4742 for a tolerance exemption from Platte Chemical Company, 419 18th Street, P.O. Box 667, Greeley, CO 80632. This notice included a summary of the petition prepared by Platte Chemical Company, the petitioner. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.1001(d) be amended by establishing an exemption from the requirement of a tolerance for residues of the inert ingredient alder bark when used as an inert ingredient (seed germination stimulator) in pesticide formulations applied to growing crops only.

I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate