

information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, 37 CFR Part 1 is amended as follows:

## PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

**Authority:** 35 U.S.C. 6, unless otherwise noted.

2. Section 1.53 is amended by revising paragraph (d)(1)(i) to read as follows:

### § 1.53 Application number, filing date, and completion of application.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(i) The prior nonprovisional application is either:

(A) Complete as defined by § 1.51(b); or

(B) The national stage of an international application in compliance with 35 U.S.C. 371; and

\* \* \* \* \*

Dated: January 28, 1998.

**Bruce A. Lehman,**

*Assistant Secretary of Commerce and  
Commissioner of Patents and Trademarks.*  
[FR Doc. 98-2732 Filed 2-3-98; 8:45 am]

BILLING CODE 3510-16-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 73

[FRL-5961-4]

### Acid Rain Program; Auction Offerors to Set Minimum Prices in Increments of \$0.01

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

**ACTION:** Direct final rule.

**SUMMARY:** Title IV of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (the Act), authorized the Environmental Protection Agency (EPA) to establish the Acid Rain Program to reduce the adverse health and ecological effects of acidic deposition. The program utilizes an innovative system of marketable allowances that are allocated to electric utilities. Title IV mandates that EPA hold yearly auctions of allowances for a small portion of the total allowances allocated each year. Private parties may also offer their allowances for sale in the EPA auctions and specify a minimum

sales price. Currently, the regulations require that an offeror's minimum sales price be in whole dollars (see 40 CFR part 73, Subpart E, § 73.70). No such restriction applies to auction bidders and since 1995, EPA has allowed bidders to submit bids in increments of less than a dollar. The restriction on minimum offer prices was originally intended to facilitate administrative ease, but allowing minimum sales prices in increments of \$0.01 would not change the design, operation, or administrative burden of the auctions in any way. In addition, it would be consistent with the flexibility afforded auction bidders. Thus, EPA is proposing to amend the current regulations to allow offerors to submit their minimum offer price in increments of \$0.01.

Because this rule revision was discussed in an Advance Notice of Proposed Rulemaking (see the June 6, 1996 **Federal Register**, Vol. 61, Number 110, pp. 28995-28998) and EPA received no adverse comments, this revision is being issued as a direct final rule.

**DATES:** This direct final rule will be effective on March 11, 1998, unless significant, adverse comments are received by March 6, 1998. If significant, adverse comments are received on this direct final rule, the direct final rule will be withdrawn through a notice in the **Federal Register**.  
**FOR FURTHER INFORMATION CONTACT:** Kenon Smith, U.S. Environmental Protection Agency, Acid Rain Division (6204J), 401 M Street SW, Washington, DC 20460, (202) 564-9164.

**SUPPLEMENTARY INFORMATION:** Any significant adverse comments received on this direct final rule, by the date listed above, will be addressed in a subsequent final rule. That final rule will be based on the rule revision that is noticed as a proposed rule in the Proposed Rule Section of this **Federal Register** and that is identical to this direct final rule.

EPA's Acid Rain Program established an innovative, market-based allowance trading system to reduce SO<sub>2</sub> emissions, one of the primary precursors of acid rain. Under this system, fossil fuel-fired power plants, the principal emitters of SO<sub>2</sub>, were allotted tradeable allowances based on their past fuel usage and emissions. Each allowance entitles a boiler unit in a plant to emit 1 ton of SO<sub>2</sub> during or after the year specified in the allowance serial number. At the end of the year, the number of allowances a unit holds must equal or exceed the total emissions at that unit; otherwise, stringent penalties will apply. After the year 2000, the total number of

allowances allocated each year will be about half of what the utility industry emitted in 1980.

Allowances may be bought, sold, or banked like any other commodity. If a unit has surplus allowances, it may sell them to units whose emissions levels exceed their allowance supply, or it may bank the allowances for future years.

Because the availability of allowances and allowance price information is crucial to ensure the economic efficiency of the emissions limitation program and facilitate the addition of new electric-generating capacity, title IV mandates that EPA hold or sponsor yearly auctions for a small portion of the total allowances allocated each year. The Act also allows private holders of allowances to use the auctions as a vehicle to sell excess allowances. Offerors can set a minimum sales price to insure that their allowances will not sell for less than that price. Both the auction bid prices and minimum offer prices are revealed to the public each year to better inform the allowance market.

### Administrative Requirements

#### A. Executive Order 12866

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), the Administrator must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because the rule does not meet any of the criteria listed above. As such, this action was not submitted to OMB for review.

### B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this direct final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than \$100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

### C. Paperwork Reduction Act

This rule does not provide for any new collection of information.

Send comments regarding this collection of analysis or any other aspect of this collection of information, including suggestions for reducing the burden, to Chief, Information Policy Branch, EPA, 401 M Street, S.W. (Mail Code 2136), Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

### D. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant

economic impact on a substantial number of small entities. Because this rule only affects the minimum price one may specify when offering allowances for sale in the allowance auction, the maximum economic impact it could have is \$0.99 per allowance offered. In the 1997 allowance auction, no allowances were offered for sale in the private auction, so the economic impact was nil.

### E. Submission to Congress

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### F. Miscellaneous

In accordance with section 117 of the Act, issuance of this rule was preceded by consultation with any appropriate advisory committees, independent experts, and federal departments and agencies.

### List of Subjects in 40 CFR Part 73

Environmental protection, Acid rain, Air pollution control, Electric utilities, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: January 29, 1998.

**Carol M. Browner,**

*Administrator, U.S. Environmental Protection Agency.*

For the reasons set forth in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

**Authority:** 42 U.S.C. 7601 and 7651, *et seq.*

2. Section 73.70 is amended by revising paragraph (c)(3) to read as follows:

#### § 73.70 Auctions.

\* \* \* \* \*

(c) \* \* \*

(3) Any minimum price; and

\* \* \* \* \*

[FR Doc. 98-2719 Filed 2-3-98; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-300611; FRL-5768-1]

RIN 2070-AB78

### Terbacil; Extension of Tolerance for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This rule extends a time-limited tolerance for residues of the herbicide terbacil and its metabolites in or on watermelon at 0.4 parts per million (ppm) for an additional 1-year period, to May 30, 1999. 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 watermelon. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

**DATES:** This regulation becomes effective February 4, 1998. Objections and requests for hearings must be received by EPA, on or before April 6, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP-300611], 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-300611], 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, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk