

cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

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 May 22, 2000. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 15, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, 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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(176)(i)(D),

(c)(262)(i)(D), (c)(263)(i)(B)(2), and (c)(270)(i)(c)(2) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(176) * * *

(i) * * *

(D) Monterey Bay Unified Air Pollution Control District.

(1) Rule 429 adopted on September 16, 1987.

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(262) * * *

(i) * * *

(D) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4606 adopted on December 19, 1991 and amended on December 17, 1998.

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(263) * * *

(i) * * *

(B) * * *

(2) Rule 351 adopted on August 24, 1993 and amended on August 20, 1998.

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(270) * * *

(i) * * *

(C) * * *

(2) Rule 1104 adopted on April 7, 1978 and amended on August 13, 1999.

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[FR Doc. 00-6972 Filed 3-21-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR-73-7288-a; FRL-6544-2]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves various revisions to Oregon's State Implementation Plan (SIP). This revision to the SIP was submitted to EPA, dated October 8, 1998.

The revised regulations include Transportation Conformity (OAR 340-020-710 through 340-020-1080) and General Conformity (OAR-020-1500 through 340-020-1590).

DATES: This direct final rule is effective on May 22, 2000 without further notice, unless EPA receives adverse comment by April 21, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Ms. Christine Lemme, Office of Air Quality (OAQ-107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, Ariel Rios Building 1200 Pennsylvania Avenue, N.W. Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ-107), Seattle, Washington 98101, and the Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204-1390.

FOR FURTHER INFORMATION CONTACT: Wayne Elson, Office of Air Quality (OAQ-107), EPA, Seattle, Washington 98101, (206) 553-1463.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

- A. What SIP amendments are EPA approving?
- B. What is Transportation Conformity?
- C. How does Transportation Conformity work?
- D. Why must the State have a Transportation Conformity SIP?
- E. What is EPA approving today for Transportation Conformity and Why?
- F. Why did the State Exclude the Grace Period for New Nonattainment Areas (40 CFR 93.102(d))?
- G. What parts of the Transportation Conformity Rule are Excluded?
- H. What is General Conformity?
- I. What is EPA approving today for General Conformity and Why?

A. What SIP Amendments Are EPA Approving?

The following table outlines the submittals EPA received and is approving in this action:

Date of submittal to EPA	Items revised
10-8-98	Transportation Conformity Rules.
10-8-98	General Conformity Rules.

B. What is Transportation Conformity?

Conformity first appeared in the Act's 1977 amendments (Public Law 95-95). Although the Act did not define conformity, it stated that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP which has been approved or

promulgated. The Act's 1990 Amendments expanded the scope and content of the conformity concept by applying conformity to state implementation plans. Section 176(c) of the Act defines conformity as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards. Also, the Act states that no Federal activity will: (1) cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

C. How Does Transportation Conformity Work?

The Federal or State Transportation Conformity Rule applies to all nonattainment and maintenance areas in the State. The Metropolitan Planning Organizations (MPO), the State Departments of Transportation (in absence of a MPO), and U.S. Department of Transportation make conformity determinations. These agencies make conformity determinations on programs and plans such as transportation improvement programs, transportation plans, and projects. These agencies calculate the projected emissions for the transportation plans and programs and compare those calculated emissions to the motor vehicle emissions ceiling established in the SIP. The calculated emissions must be smaller than the motor vehicle emissions ceiling for showing a positive conformity with the SIP.

D. Why Must the State Have a Transportation Conformity SIP?

EPA was required to issue criteria and procedures for determining conformity of transportation plans, programs, and projects to a SIP by section 176(c) of the Act. The Act also required the procedure to include a requirement that each State submit a revision to its SIP including conformity criteria and procedures. EPA published the first transportation conformity rule in the November 24, 1993, **Federal Register** (FR), and it was codified at 40 CFR part 51, subpart T and 40 CFR part 93, subpart A. EPA required the States and local agencies to adopt and submit a transportation conformity SIP revision by November 25, 1994. The State of Oregon sent a transportation conformity SIP on April 17, 1995, and EPA approved this SIP on May 16, 1996 (61 FR 24709). EPA revised the

transportation conformity rule on August 7, 1995 (60 FR 40098), November 14, 1995 (60 FR 57179), August 15, 1997 (62 FR 43780), and it was codified under 40 CFR part 51, subpart T and 40 CFR part 93, subpart A—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws (62 FR 43780). EPA's action of August 15, 1997, required the States to change their rules and send a SIP revision by August 15, 1998.

E. What Is EPA Approving Today for Transportation Conformity and Why?

EPA is approving the modified Oregon Transportation Conformity Rules OAR 340-020-710 through 340-020-1080 that the ODEQ submitted on October 8, 1998 except for the sections OAR 340-020-730(3), OAR 340-020-750(4), OAR 340-020-750(4)(b), OAR 340-020-800(3)-(6), OAR 340-020-890(5), OAR 340-020-900(6)(c), OAR 340-020-910(1)(b), OAR 340-020-1000(1)(a) and (2), and OAR 340-020-1030(2). The rationale for exclusion of these sections is discussed in Question G.

The Federal Transportation Conformity Rule required the states to adopt the majority of the Federal rules in verbatim form with a few exceptions. The States cannot make their rules more stringent than the Federal rules unless the State's rules apply equally to non-federal entities as well as Federal entities. The Oregon Transportation Conformity Rule is different from the Federal rule in several areas. These differences were discussed in the May 16, 1996 EPA approval. The State has made no additional changes or modifications, with the exception to the changes required by the revisions to the Federal Transportation Conformity Rule, August 15, 1997 (62 FR 43780). EPA has evaluated this SIP revision and has determined that the State has fully adopted the Federal Transportation Conformity rules as described in 40 CFR part 51, subpart T and 40 CFR part 93, subpart A. Also, the ODEQ has completed and satisfied the public participation and comprehensive interagency consultations during development and adoption of these rules at the local level. Therefore, EPA is approving this SIP revision.

F. Why Did the State Exclude the Grace Period for New Nonattainment Areas (40 CFR 93.102(d))?

The State excluded 40 CFR 93.102(d) of the Federal Transportation Conformity Rule from its State rule.

Section 93.102(d) allows up to 12 months for newly designated nonattainment areas to complete their conformity determination. The Sierra Club challenged this section of the rule arguing that allowing a 12-month grace period was unlawful under the Act. On November 4, 1997, the United States Court of Appeals for the District of Columbia Circuit held in *Sierra Club v. Environmental Protection Agency*, No. 96-1007, cited EPA's grace period violates the plain terms of the Act and, therefore, is unlawful. Based on this court action, the State has excluded this section from its rule. We agree with the State's action, and exclusion of 40 CFR 93.102(d) will not prevent us from approving the State transportation conformity SIP.

G. What Parts of the Transportation Conformity Rule Are Excluded?

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued its opinion in *Environmental Defense Fund v. Environmental Protection Agency*, No. 97-1637. The Court granted the environmental group's petition for review and ruled that 40 CFR 93.102(c)(1), 93.121(a)(1), and 93.124(b) are unlawful and remanded 40 CFR 93.118(e) and 93.120(a)(2) to EPA for revision to harmonize these provisions with the requirements of the Act for an affirmative determination the Federal actions will not cause or increase violations or delay attainment. The sections that were included in this decision were: (a) 40 CFR 93.102(c)(1) which allowed certain projects for which the National Environmental Policy Act (NEPA) process has been completed by the DOT to proceed toward implementation without further conformity determinations during a conformity lapse, (b) 40 CFR 93.118(e) which allowed use of motor vehicle emissions budgets (MVEB) in the submitted SIPs after 45 days if EPA had not declared them inadequate, (c) 40 CFR 93.120(a)(2) which allowed use of the MVEB in a disapproved SIP for 120 days after disapproval, (d) 40 CFR 93.121(a)(1) which allowed the non-federally funded projects to be approved if included in the first three years of the most recently conforming transportation plan and transportation improvement programs, even if conformity status is currently lapsed, and (e) 40 CFR 93.124(b) which allowed areas to use a submitted SIP that allocated portions of a safety margin to transportation activities for conformity purposes before EPA approval. Since the States were required to submit transportation conformity SIPs not later than August

15, 1998, and include those provisions in verbatim form, the State's SIP revision includes all those sections which the Court ruled unlawful or remanded for consistency with the Act. The EPA can not approve these sections. EPA believes that ODEQ has complied with the SIP requirements and has adopted the Federal rules which were in effect at the time that the transportation conformity SIP was due to EPA. If the court had issued its ruling before adoption and SIP submittal by the ODEQ, we believe the ODEQ would have removed these sections from their rule. The ODEQ has expended its resources and time in preparing this SIP and meeting the Act's statutory deadline, and EPA acknowledges the agency's good faith effort in submitting the transportation conformity SIP on time. ODEQ will be required to submit a SIP revision in the future when EPA revises its rule to comply with the court decision. Because the court decision has invalidated these provisions, EPA believes that it is reasonable to exclude the corresponding sections of the state rules from this SIP approval action. As a result, we are not taking any action on the relevant sections in: OAR 340-020-730(3), OAR 340-020-750(4), OAR 340-020-750(4)(b), OAR 340-020-800(3)-(6), OAR 340-020-890(5), OAR 340-020-900(6)(c), OAR 340-020-910(1)(b), OAR 340-020-1000(1)(a) and (2), and OAR 340-020-1030(2) of the modified Oregon Transportation Conformity Rules. The conformity determinations affected by these sections should comply with the relevant requirements of the statutory provisions of the Act underlying the court's decision on these issues. The EPA will be issuing guidance on how to implement these provisions in the interim prior to EPA amendment of the federal transportation conformity rules. Once these Federal rules have been revised, conformity determinations in Oregon should comply with the requirements of the revised Federal rule until corresponding provisions of the Oregon conformity SIP have been approved by EPA.

H. What Is General Conformity?

General Conformity is similar to Transportation Conformity and also derived from section 176(c) of the CAA. The Act's 1990 Amendments expanded the scope and content of the conformity concept by applying conformity to state implementation plans. Section 176(c) of the Act defines conformity as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards. Also, the Act states that

no Federal activity will: (1) cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. General Conformity, however applies to federal actions where Transportation Conformity does not apply. Examples are ski resorts on public land, and airport improvements. Also General Conformity is only carried out on project by project basis.

I. What Is EPA Approving Today for General Conformity and Why?

General Conformity requires that activities on federal lands (such as prescribed burning by the Forest Service) align with the air quality goals set in the Oregon SIP. Oregon's current General Conformity rules apply to all areas of the state. Since they were adopted, however, the U.S. Congress clarified that General Conformity pertains only to nonattainment and maintenance areas. The rule is changed to remove the applicability of the rule for federal actions involving prescribed burning in attainment or unclassifiable areas and remove all references to prescribed burning. These revisions will have no effect on existing prescribed burning practices, as implementation of the General Conformity requirements in attainment areas was delayed pending the outcome of a federal determination of applicability. The Oregon Smoke Management Plan will continue to provide statewide guidelines for state and federal land managers to minimize smoke impacts from prescribed burning.

Summary of Action

EPA approves and takes no action on certain Oregon Administrative Rules (as noted in section I): "Conformity to State or Federal Implementation Plans to Transportation Plans, Programs, and Projects Developed and Funded Under Title 23 U.S.C. or Federal Transit Laws" found in:

- 340-20-710 Purpose.
- 340-20-720 Definitions.
- 340-20-730 Applicability.
- 340-20-750 Frequency of Conformity Determinations.
- 340-20-760 Consultation.
- 340-20-770 Content of Transportation Plans.
- 340-20-780 Relationship of Transportation Plan and TIP Conformity with the NEPA Process.
- 340-20-790 Fiscal Constraints for Transportation Plans.
- 340-20-800 Criteria and Procedures for Determining Conformity of

Transportation Plans, Programs, and Projects: General.

- 340-20-810 Criteria and Procedures: Latest Planning Assumptions.
 - 340-20-820 Criteria and Procedures: Latest Emissions Model.
 - 340-20-830 Criteria and Procedures: Consultation.
 - 340-20-840 Criteria and Procedures: Timely Implementation of TCMs.
 - 340-20-850 Criteria and Procedures: Currently Conforming Transportation Plan and TIP.
 - 340-20-860 Criteria and Procedures: Projects from a Plan and TIP.
 - 340-20-870 Criteria and Procedures: Localized CO and PM-10 Violations (Hot spots).
 - 340-20-880 Criteria and Procedures: Compliance with PM-10 Control Measures.
 - 340-20-890 Criteria and Procedures: Motor Vehicle Emissions Budget.
 - 340-20-900 Criteria and Procedures: Emissions Reductions in Areas Without Motor Vehicle Emissions Budgets.
 - 340-20-910 Consequences of Control Strategy Implementation Plan Failures.
 - 340-20-1000 Requirements for Adoption or Approval of Projects by Other Recipients of Funds Designated under title 23 U.S.C. or the Federal Transit Laws.
 - 340-20-1010 Procedures for Determining Regional Transportation-Related Emissions.
 - 340-20-1020 Procedures for Determining Localized CO and PM-10 Concentrations (Hot-Spot Analysis).
 - 340-20-1030 Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan (or Implementation Plan Submission).
 - 340-20-1040 Enforceability of Design Concept and Scope and Project-Level Mitigation and Control Measures.
 - 340-20-1050 Exempt Projects.
 - 340-20-1060 Projects Exempt from Regional Emissions Analyses.
 - 340-20-1070 Traffic Signal Synchronization Projects.
- EPA approves the changes made to certain sections of the Oregon Administrative Rules: "Determining Conformity of General Federal Actions to State and Federal Implementation Plans" found in:
- 340-020-1510 Definitions.
 - 340-020-1520 Applicability.
 - 340-020-1530 Conformity Analysis.
 - 340-020-1570 Criteria for Determining Conformity of General Federal Actions.
 - 340-020-1580 Procedures for Conformity Determinations of General Federal Actions.

340-020-1590 Procedures Mitigation of Air Quality Impacts

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 May 22, 2000 without further notice unless the Agency receives adverse comments by April 21, 2000.

If the EPA receives such comments, then EPA will publish a notice 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. The 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 May 22, 2000 and no further action will be taken on the proposed rule.

Administrative Requirements

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. 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.*). 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 (Public Law 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will 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), because it 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. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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.*).

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). This rule will be effective May 22, 2000 unless EPA receives adverse written comments by April 21, 2000.

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 May 22, 2000. 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: February 22, 2000.

Chuck Findley,

Acting Regional Administrator, Region 10.

PART 52, chapter I, 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 MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c) (129) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(129) The Environmental Protection Agency (EPA) approves various amendments to the Oregon State Air Quality Control Plan contained in a submittal to EPA, dated October 8, 1997.

(i) Incorporation by reference.

(A) EPA is approving or taking no action on the modified Oregon Transportation Conformity Rules submitted on October 8, 1998. EPA is approving: OAR 340-20-710, 340-20-720, 340-20-730, 340-20-750, 340-20-760 340-20-770, 340-20-780, 340-20-790, 340-20-800, 340-20-810, 340-20-820, 340-20-830, 340-20-840, 340-20-850, 340-20-860 340-20-870, 340-20-880, 340-20-890, 340-20-900, 340-20-910 340-20-1000, 340-20-1010, 340-20-1020, 340-20-1030, 340-20-1040, 340-20-1050, 340-20-1060 and 340-20-1070, effective September 23, 1998.

(B) EPA is taking no action on sections OAR 340-020-730(3), 340-020-

750(4), 340-020-750(4)(b), 340-020-800(3)-(6), 340-020-890(5), 340-020-900(6)(c), 340-020-910(1)(b), 340-020-1000(1)(a) and (2), and 340-020-1030(2).

(C) EPA approves the changes made to certain sections of the Oregon Administrative Rules: "Determining Conformity of General Federal Actions to State and Federal Implementation Plans" found in: OAR 340-020-1510, 340-020-1520, 340-020-1530, 340-020-1570, 340-020-1580, and 340-020-1590, effective September 23, 1998.

[FR Doc. 00-6969 Filed 3-21-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300965; FRL-6485-3]

RIN 2070-AB78

Cucurbitacins; 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 cucurbitacins from the powders and juices of the Hawkesbury melon *Citrullus lanatus* on various food commodities when applied/used as an inert (other) ingredient (gustatory stimulant) in pesticides applied to growing crops only. Agricultural Research Services, United States Department of Agriculture submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996, requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of cucurbitacins from Hawkesbury melon.

DATES: This regulation is effective March 22, 2000. Objections and requests for hearings, identified by docket control number OPP-300965, must be received by EPA on or before May 22, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-

300965 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Vera Soltero, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-9359; and e-mail address: soltero.vera@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Cat-egories	NAICS codes	Examples of poten-tially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufac-turing

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 the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have 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 Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register-Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-300965. The official record

consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

II. Background and Statutory Findings

In the **Federal Register** of September 1, 1999 (64 FR 47788) (FRL-6098-6), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) (Public Law 104-170) announcing the filing of a pesticide tolerance petition by, Agricultural Research Services, United States Department of Agriculture, Agricultural Research Center, Beltsville, MD 20705. This notice included a summary of the petition prepared by the petitioner United States Department of Agriculture. 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 cucurbitacins derived from the Hawkesbury melon *Citrullus lanatus*. The petitioner noted that the Agency had previously established exemptions from the requirement of a tolerance for the use of buffalo gourd and zucchini juice, as sources of the inert ingredient cucurbitacin (57 FR 40128, September 2, 1992 and 63 FR 43085, August 12, 1998), and is seeking to add the Hawkesbury melon *Citrullus lanatus* as an additional source of cucurbitacins.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for 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