

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, because it does not require the public to perform activities conducive to the use of VCS.

**K. 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 October 15, 2001. 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, Intergovernmental relations, Hydrocarbons, Incorporation by reference, Volatile organic compounds, Ozone.

**Authority:** 42 U.S.C. 7401-7671 *et seq.*

Dated: July 31, 2001.

**David A. Ullrich,**

*Acting Regional Administrator, Region 5.*

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. 7401-7671*q.*

**Subpart YY—Wisconsin**

2. Section 52.2570 is amended by adding paragraph (c)(101) to read as follows:

**§ 52.2570 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(101) On November 15, 1992, the state of Wisconsin submitted a revision to the Wisconsin State Implementation Plan for ozone establishing an enhanced motor vehicle inspection and maintenance program in Southeast Wisconsin. The state made several supplements to the original plan, dated January 15, 1993, November 15, 1993, July 28, 1994, February 13, 1996, July 3,

1997, August 11, 1998, December 30, 1998, December 22, 2000, and July 27, 2001. This revision included Wisconsin statutes providing authorities for implementing the program, Wisconsin Administrative Rules, the contract between the state of Wisconsin and the vehicle testing contractor, schedules for implementation, and technical materials related to test equipment specifications, reports, and quality assurance procedures.

(i) Incorporation by reference.

(A) Wisconsin Statutes, Section 110.20, effective January 1, 1996, Section 285.30, effective January 1, 1997.

(B) Wisconsin Administrative Code, Chapter NR 485, effective February 1, 2001.

(C) Wisconsin Administrative Code, Chapter TRANS 131, effective June 1, 2001.

\* \* \* \* \*

[FR Doc. 01-20503 Filed 8-15-01; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[FRL-7034-3]

**Notice of Prevention of Significant Deterioration Final Determination for Three Mountain Power, LLC, Burney, CA**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of final action.

**SUMMARY:** The purpose of this document is to announce that, on May 30, 2001, the U.S. Environmental Protection Agency (EPA) Environmental Appeals Board ("Board") dismissed the petition for review filed by the Burney Resources Group of a permit issued to Three Mountain Power, LLC ("TMP") by the Shasta County Air Quality Management District ("Shasta" or "District") pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations under 40 CFR 52.21. This document also announces that a final PSD permit has been issued to TMP by the Shasta pursuant to the terms and conditions of the District's delegation of authority from the U.S. EPA under 40 CFR 52.21(u).

**DATES:** The effective date for the Board's decision is May 30, 2001.

**FOR FURTHER INFORMATION CONTACT:** Duong Nguyen, Permits Office (AIR3), Air Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1142.

**SUPPLEMENTARY INFORMATION:** On February 20, 2001, the District issued a revised Authority to Construct (ATC) to TMP for the construction of a new electricity generating plant in Burney, CA. The revised ATC reflected information and comments provided by TMP, interested parties, and the public through February 20, 2001. The revised ATC also constituted a final PSD Permit pursuant to 40 CFR 52.21, the terms and conditions of the District's delegation of authority from the U.S. EPA under 40 CFR 52.21(u), and Section 7 of the federal Endangered Species Act. Subsequent to the issuance of the revised ATC, the Burney Resources Group filed a petition for review of the ATC with the Board on March 21, 2001. On May 30, 2001, the Board denied review of the petition for the following reasons: (1) Petitioner has not shown that the District's selection of a 2.5 ppm (averaged over one hour) NO<sub>x</sub> limit as BACT to be clearly erroneous or an exercise of discretion or an important policy consideration that the Board should, in its discretion, review; (2) the District's selection of a 4 ppm (averaged over three hours) CO limit is consistent with the BACT limit established for other sources in Region IX; (3) the District's elimination of SCONOX, a new control technology, during the BACT review did not materially affect the final determination of the limit constituting BACT, since this limit would be achieved with either a selective catalytic reduction (SCR) system or SCONOX; (4) the District's selection of a 5 ppm ammonia slip is the most stringent ammonia control in PSD permits issued in Region IX and Petitioner's argument that the ammonia slip will form secondary PM<sub>10</sub> is highly speculative in nature; and (5) issues regarding PM<sub>10</sub> and SO<sub>2</sub> offsets and mitigation measures are not within the purview of the federal PSD program. (*See In re: Three Mountain Power, LLC*, PSD Appeal No. 01-05.)

Pursuant to 40 CFR 124.19(f)(1), for purposes of judicial review, final Agency action occurs when a final PSD permit is issued and Agency review procedures are exhausted. This document is being published pursuant to 40 CFR 124.19(f)(2), which requires notice of any final agency action regarding a permit to be published in the **Federal Register**. This action being published today in the **Federal Register** constitutes notice of the final Agency action denying review of the PSD permit and, consequently, notice of the District's issuance of final PSD permit No. 99-PO-01 to Three Mountain Power, LLC, on February 20, 2001.

The proposed power plant, located near the town of Burney, Shasta County, California, will have a nominal electrical output of 500 MW and will be fired on natural gas. The proposed facility will be subject to PSD for Nitrogen Oxides (NO<sub>x</sub>), Carbon Monoxide (CO), Volatile Organic Compounds (VOC), and Particulate Matter (PM<sub>10</sub>). The permit includes the following Best Available Control Technology (BACT) emission limits: NO<sub>x</sub> at 2.5 ppmvd (based on 1-hour averaging at 15% O<sub>2</sub>), 4 ppmvd CO (based on 3-hour averaging at 15% O<sub>2</sub>), 2 ppmvd VOC (based on 1-hour averaging at 15% O<sub>2</sub>), and PM<sub>10</sub> at 0.0012 grain/dscf (based on 1-hour averaging at 3% CO<sub>2</sub>). The BACT requirements include use of Selective Catalytic Reduction (SCR) for the control of NO<sub>x</sub> emissions, an oxidation catalyst for CO and VOC emissions, and a combination of good combustion control and natural gas for the control of PM<sub>10</sub> emissions. Continuous emission monitoring is required for NO<sub>x</sub>, CO and opacity. The facility is also subject to New Source Performance Standards, Subparts AA and GG, and the Acid Rain program under title IV of the Clean Air Act.

If available, judicial review of these determinations under section 307(b)(1) of the CAA may be sought only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which this document is published in the **Federal Register**. Under section 307(b)(2) of this Act, this determination shall not be subject to later judicial review in any civil or criminal proceedings for enforcement.

Dated: July 30, 2001.

**Jack P. Broadbent,**

*Director, Air Division, Region IX.*

[FR Doc. 01-20661 Filed 8-15-01; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-301129; FRL-6782-8]

RIN 2070-AB78

#### ***B-D-Glucuronidase from E. coli and the Genetic Material Necessary for its Production As a Plant Pesticide Inert Ingredient; 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 *B-D-glucuronidase* from *Escherichia coli* and the genetic material necessary for its production in or on all food commodities when applied/used as a plant pesticide inert ingredient. Monsanto 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 *B-D-glucuronidase* derived from *E. coli* and the genetic material necessary for its production.

**DATES:** This regulation is effective August 16, 2001. Objections and requests for hearings, identified by docket control number (OPP-301129), must be received by EPA, on or before October 15, 2001.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit IX. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number (OPP-301129) in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Linda Hollis, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703-308-8733); and e-mail address: hollis.linda@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:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311  32532	Crop production Animal production Food manufacturing Pesticide manufacturing

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," "Regulations and Proposed Rules," 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/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml/00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml/00/Title_40/40cfr180_00.html), a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301129. 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 May 3, 2000 (65 FR 25719) (FRL-6553-2), EPA issued a notice pursuant to section 408