

(B) Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the source listed in paragraph (c)(202)(i)(B) of this section.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[CA-276-0380; FRL-7461-5]

#### Approval and Promulgation of Implementation Plans and Designation of Areas; California—Indian Wells Valley PM-10 Nonattainment Area

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval pursuant to the Clean Air Act (CAA or the Act) of the moderate area plan and maintenance plan for the Indian Wells Valley planning area in California and redesignating the area from nonattainment to attainment for the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10).

**EFFECTIVE DATE:** This rule is effective on June 6, 2003.

**ADDRESSES:** You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency,  
Region 9, Air Division, Air Planning  
Office (AIR-2), 75 Hawthorne Street,  
San Francisco, CA 94105-3901.

Kern County Air Pollution Control  
District, 2700 "M" Street, Suite 302,  
Bakersfield, CA 93301.

California Air Resources Board, 1001 I  
Street, Sacramento, CA 95814.

**FOR FURTHER INFORMATION CONTACT:**  
Karen Irwin, Air Planning Office (AIR-2), EPA Region 9, at (415) 947-4116 or:  
*irwin.karen@epa.gov*.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On December 17, 2002 we proposed to approve the PM-10 moderate area nonattainment plan and maintenance plan and the redesignation request for the Indian Wells Valley planning area (Indian Wells plan) submitted to EPA by the California Air Resources Board

(ARB) on December 5, 2002.<sup>1</sup> 67 FR 77196. In the proposal, we discussed in detail the CAA provisions for PM-10 moderate area plans, including EPA's clean data approach to areas such as the Indian Wells Valley, and the Act's requirements for maintenance plans and redesignation to attainment. In the proposal, we also evaluated the moderate area plan and maintenance plan and redesignation request according to the CAA and applicable EPA guidance. The reader is advised to refer to the proposal for these detailed discussions as they are not repeated here. In short, EPA, among other findings, determined that:

(1) The Indian Wells Valley PM-10 nonattainment area has attained the PM-10 NAAQS based on three years of quality assured monitoring data;

(2) The emissions inventory in the plan is current, accurate and complete per CAA section 172(c)(3);

(3) Control measures that can be attributed as responsible for bringing the area into attainment meet the Reasonably Available Control Measures (RACM) requirement per CAA section 189(a)(1)(C);

(4) The air quality improvement in the area is due to permanent and enforceable measures;

(5) The plan adequately demonstrates future maintenance of the NAAQS for at least ten years into the future;

(6) The motor vehicle emission budgets contained in the plan meet the purposes of CAA section 176(c)(1) and the transportation conformity rule at 40 CFR part 93, subpart A; and

(7) The area's maintenance demonstration does not rely on nonattainment New Source Review (NSR) and, therefore, the area need not have a fully approved nonattainment NSR program prior to approval of the redesignation request.

EPA did not receive any public comments on the proposed rule.

##### II. Summary of Action

With this final action, we are incorporating the moderate area plan and maintenance plan and redesignation request for the Indian Wells Valley Planning area, September 5, 2002, into the California State Implementation Plan (SIP). We are also approving the following measures, city ordinances, and commitments into the California SIP:

1. Fugitive Dust Control Plan for the Naval Air Weapons Station, China Lake, California (September 1, 1994).<sup>2</sup> This

plan establishes controls for unpaved roads, disturbed vacant land and open storage piles.

2. Kern County 1990 Land Use Ordinance—Chapter 18.55 and Kern County Development Standards, Chapter III. This ordinance requires paving of streets for new subdivisions according to the County Development Standards.<sup>3</sup>

3. City of Ridgecrest Municipal Code 1980 which requires paving of streets for new subdivisions.<sup>4</sup>

4. ARB Executive Order G-125-295 which contains a commitment for future PM-10 air quality monitoring in the Indian Wells Valley planning area.

We are also approving the following rules as RACM with respect to control of process fugitive emissions, however, as indicated by the following dates, they are already included in the California SIP: Rule 401 "Visible Emissions," November 29, 1993; Rule 404.1

"Particulate Matter Concentration, April 18, 1972; and Rule 405 "Particulate Matter Emission Rate," July 18, 1983. In addition, we are approving as RACM in the Indian Wells area the paving of unpaved roads between 1993 and the present<sup>5</sup> and Bureau of Land Management closure of 83 miles of unpaved roads/off-highway vehicle trails, between 1994 and the present.<sup>6</sup>

With this final action, the Indian Wells Valley PM-10 nonattainment area is redesignated to attainment for the 24-hour and annual PM-10 NAAQS. The CAA requirements of the NSR program are replaced by the Prevention of Significant Deterioration program pursuant to 40 CFR 52.21, per the delegation agreement between EPA and Kern County Air Pollution Control District dated August 12, 1999.

##### III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this final action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). It 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

<sup>3</sup> Appendix E of the Indian Wells plan.

<sup>4</sup> Ibid.

<sup>5</sup> Appendix D of the Indian Wells plan.

<sup>6</sup> Appendix E of the Indian Wells plan.

<sup>1</sup> We had previously received a draft of the plan for review.

<sup>2</sup> Appendix D of the Indian Wells plan.

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 (Pub. L. 104-4).

This final rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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). This final action 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 final rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (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 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. This final 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.*).

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 July 7, 2003. 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**

*40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

*40 CFR Part 81*

Environmental protection, Air pollution control.

Dated: February 24, 2003.

**Alexis Strauss,**  
*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 D—California**

■ 2. Section 52.220 is amended by adding paragraph (c)(306) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(306) The following plan was submitted on December 5, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Kern County Air Pollution Control District.

(1) PM-10 (Respirable Dust) Attainment Demonstration, Maintenance Plan, and Redesignation Request (excluding pages 4-1, 4-2, 6-1, 6-2, Appendix A, and pages D-12 through D-37 of Appendix D) adopted on September 5, 2002.

(B) California Air Resources Board, California.

(1) California Air Resources Board Executive Order G-125-295 adopted on December 4, 2002.

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**PART 81—[AMENDED]**

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.305 the PM-10 table is amended by revising the entry for the Indian Wells Valley planning area under "Fresno, Kern, Kings, Tulare, San Joaquin, Stanislaus, Madera Counties" to read as follows:

**§ 81.305 California.**

\* \* \* \* \*

**CALIFORNIA—PM-10**

Designated area	Designation	Date <sup>1</sup>		Classification	
		Type	Date <sup>1</sup>	Type	
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Fresno, Kern, Kings, Tulare, San Joaquin, Stanislaus, Madera Counties: Indian Wells Valley planning area ..... That portion of Kern County contained within Hydrologic Unit #18090205.	09/5/02	Nonattainment .....	July 7, 2003	Attainment.	
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2003-0140; FRL-7302-7]

#### Pesticide Tolerance Processing Fees; Annual Adjustment

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

**ACTION:** Final rule.

**SUMMARY:** This rule increases fees charged for processing tolerance petitions for pesticides under the Federal Food, Drug, and Cosmetic Act (FFDCA). As specified in 40 CFR 180.33(o), the existing fee schedule is changed annually by the same percentage as the percent change in the Federal General Schedule (GS) pay scale. Accordingly, the revisions in this rule reflect a 4.27% increase in locality pay for civilian Federal GS employees working in the Washington, DC and Baltimore, MD metropolitan area in 2003.

**DATES:** This rule is effective June 6, 2003.

**FOR FURTHER INFORMATION CONTACT:** For general information concerning this rule contact: Ed Setren, Resources Management Staff (7501C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: (703) 305-5927; fax: (703) 305-5060; e-mail address: [setren.edward@epa.gov](mailto:setren.edward@epa.gov).

For technical information concerning tolerance petitions and individual fees contact: Sonya Brooks, Resources Management Staff (7501C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: (703) 308-6423; fax: (703) 305-5060; e-mail address: [brooks.sonya@epa.gov](mailto:brooks.sonya@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Does this Rule Apply to Me?

This rule may directly affect any person who might petition the Agency for new tolerances, hold a pesticide registration with existing tolerances, or anyone who is interested in obtaining or retaining a tolerance in the absence of a registration. This group can include pesticide manufacturers or formulators, companies that manufacture chemicals used in formulating pesticides, importers of food, grower groups, or any

person who seeks a tolerance. The vast majority of potentially affected categories and entities may include, but are not limited to:

- Chemical industry (NAICS codes 115112 and 325320) e.g., pesticide chemical manufacturers, formulators, chemical manufacturers of inert ingredients

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed above could also be regulated. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

##### II. How Can I Get Additional Information or Copies of this Document or Other Documents?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2002-0140. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under 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.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search,"

then key in the appropriate docket ID number.

##### III. What Action is the Agency Taking in this Rule?

With this rule, the Agency is increasing the fees charged for processing tolerance petitions for pesticides under the Federal Food, Drug, and Cosmetic Act (FFDCA). The pay raise in 2003 for Federal General Schedule (GS) employees working in the Washington, DC/Baltimore, MD metropolitan pay area is 4.27%. This increase in the fees charged for processing tolerance petitions reflects these recent pay raises.

##### IV. Why is the Agency Taking this Action?

EPA is charged with the administration of section 408 of FFDCA. Section 408 authorizes the Agency to establish tolerance levels and exemptions for raw agricultural commodities. Section 408(o) requires the Agency to collect fees that will, in the aggregate, be sufficient to cover the costs of processing petitions for pesticide products. EPA is publishing this action pursuant to 40 CFR 180.33(o).

The current fee schedule for tolerance petitions published in the **Federal Register** of March 13, 2002 (67 FR 11248) (FRL-6774-3), codified at 40 CFR 180.33, and became effective on April 12, 2002. At that time the fees were increased by 4.94%, 3.81%, and 4.77% to reflect the 2000, 2001, and 2002 pay adjustments in accordance with a provision in the regulation that provides for automatic annual adjustments to the fees based on annual percentage changes in Federal salaries (40 CFR 180.33(o)).

The Federal Employees Pay Comparability Act of 1990 (FEPCA) initiated locality-based comparability pay, known as "locality pay." The intent of the legislation is to make Federal pay more responsive to local labor market conditions by adjusting General Schedule salaries on the basis of a comparison with non-Federal rates on a geographic, locality basis. The processing and review of tolerance petitions is conducted by EPA employees working in the Washington, DC/Baltimore, MD pay area.

The pay raise in 2003 for Federal General Schedule employees working in the Washington, DC/Baltimore, MD metropolitan pay area is 4.27%; therefore, the tolerance petition fees are being increased by 4.27%. The entire revised fee schedule is presented in § 180.33 of the regulatory text for the